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1 IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO

2

HOBART CORPORATION, et al., )

3

)  
Plaintiffs, )

4

-vs- ) Case No. 3:10-CV-195

5

)  
WASTE MANAGEMENT OF OHIO, )

6

INC., et al., )

7

)  
Defendants. )

8

9 VIDEOTAPED DEPOSITION OF HORACE J. BOESCH,

10 JR., taken by me, Susan L. Bickert, a Certified  
11 Shorthand Reporter and Notary Public in and for the  
12 State of Ohio, at large, as upon Cross Examination,  
13 at the offices of Dinsmore & Shohl LLP, 1100  
14 Courthouse Plaza SW, 10 North Ludlow Street,  
15 Dayton, Ohio 45402, on Thursday, December 1, 2011,  
16 commencing at 10:07 o'clock a.m. on behalf of the  
17 Plaintiffs.

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1 (WHEREUPON, Boesch  
2 Exhibit Number 1 was marked  
3 for purposes of  
4 identification.)  
5 THE VIDEOGRAPHER: Ladies and gentlemen,  
6 we are now on the record. The time is 10:07.  
7 Madam Court Reporter, will you please  
8 swear in the witness?

9 HORACE J. BOESCH, JR.,  
10 a witness being of lawful age, having been duly  
11 cautioned and sworn, did testify upon his oath as  
12 follows:

13 CROSS EXAMINATION  
14 BY MR. CYPHERT:

15 Q Mr. Boesch, my name is Mike Cyphert.  
16 I am counsel for the Plaintiffs in this matter,  
17 which include Hobart Corporation, NCR and  
18 Kelsey-Hayes. And this deposition is being taken  
19 both -- in video format pursuant to a Notice of  
20 Deposition that was provided to your counsel, Mr.  
21 Hoffman. In fact, Mr. Hoffman is here, and he is  
22 representing you today; is that correct?

23 A Yes. That's correct.

24 Q Before we get started, could you  
25 please give your full legal name to the court

0007

1 reporter for the record?

2 A Okay. My full legal name is Horace  
3 J. Boesch, Jr.

4 Q And where do you presently reside?

5 A I reside at 4170 Brookdale Drive,  
6 Kettering, Ohio 45429.

7 Q And how old are you, sir?

8 A I'm 79 years old.

9 Q What is your birth date?

10 A 2/2/32.

11 Q Before I begin asking you some  
12 questions --

13 MR. STRANG: Hey, Michael.

14 MR. CYPHERT: Yes.

15 MR. STRANG: Could the phone be moved  
16 closer to the deponent? We are having trouble  
17 hearing him.

18 THE WITNESS: Is that better?

19 MR. STRANG: That's much better. And if  
20 you could repeat your last name, sir, and spell it  
21 I would appreciate it

22 THE WITNESS: Okay. My name is Boesch,

23 B-O-E-S-C-H.

24 MR. STRANG: Thank you.

25 BY MR. CYPHERT (Continuing):

0008

1 Q Mr. Boesch, just as a preliminary  
2 matter, have you had your deposition taken before?

3 A Yes, I have.

4 Q Let me just go through some  
5 preliminary instructions and such. As you know,  
6 this is being taken both in video and transcript  
7 format, but I would ask that if you're answering a  
8 question with a yes or no that you do so verbally  
9 as opposed to just shaking your head so that both  
10 the transcript and the video will record an audio  
11 response. Is that acceptable?

12 A That's fine.

13 Q And certainly, if I ask a question  
14 or any of the other counsel here ask a question  
15 that you don't understand, would you please stop us  
16 and ask for either clarification or for the  
17 question to be repeated?

18 A Yes, sir.

19 Q Now, we have premarked as Boesch  
20 Exhibit 1 an aerial photograph that I will  
21 represent to you was taken in 2005, and I'm going  
22 to ask you some questions with respect to the South  
23 Dayton dump and landfill site which is indicated on  
24 the aerial photograph. And as you can see from the  
25 aerial photograph, there are a number of

0009

1 descriptions and other accounts. This was taken  
2 from the Remedial Investigation Report for Operable  
3 Unit 1, and certainly if any of the designations or  
4 descriptions are inconsistent with your  
5 recollection, I want you to give me your  
6 recollection. And you are under no obligation  
7 whatsoever to rely upon or to agree with any -- any  
8 of the descriptions that may be on this exhibit.  
9 Okay?

10 A That's fine.

11 Q And, again, if you need to speak  
12 with your counsel, Mr. Hoffman, just stop me and  
13 ask for that opportunity, and we can either have a  
14 side bar conversation, or if you want to leave the  
15 room that's fine. And certainly if you need any --  
16 need a break either for water or otherwise, just  
17 let me know and we'll take a break at that time.

18 I assume we'll probably break for lunch,  
19 and we'll make that determination a little bit  
20 later on, see how far we go.

21 MR. HARBECK: Mike, just as a ground  
22 rule, could we just have an understanding that an  
23 objection by one counsel is an objection by all to  
24 avoid multiple objections?

25 MR. CYPHERT: That is fine with me.

0010

1 MR. HARBECK: Thank you.

2 BY MR. CYPHERT (Continuing):

3 Q Now, Mr. Boesch, if you will take a  
4 look at what we have premarked as your Exhibit  
5 Number 1, does that aerial photograph generally  
6 depict the South Dayton dump and landfill site?

7 A Yes, it does.

8 Q I would ask that kind of as a  
9 preliminary matter if you would be so kind as to  
10 trace for me your educational history beginning  
11 from high school and then bringing us up to date?

12 A Well, I started out in grade school  
13 at Holy Angels Grade School here in Dayton, and  
14 then during World War II my father and uncles were  
15 -- my father wasn't in the service. He was in  
16 World War I, but my two uncles had to go in, so he  
17 sent me to a boarding school down in Fayetteville,  
18 Ohio, where I finished grade school. And then I  
19 attended Chaminade High School until my senior  
20 year, and I got a little -- I got a few demerits  
21 and got the boot, so to speak, and he sent me to a  
22 prep school down in Georgia, Georgia Military  
23 College in Millersville, Georgia. It was a junior  
24 college and a prep school. I graduated from there.  
25 Then I went to Georgia Tech for a year and decided  
0011

1 I didn't want to be an engineer and came back to  
2 the University of Dayton and was in liberal arts.  
3 Graduated in 1954 with a degree in liberal arts.  
4 And then I went in the service after that, and then  
5 I went up to Ohio Northern to law school for a year  
6 and decided I didn't want to do that either, and I  
7 came back and went into the commercial-industrial  
8 end of the real estate business.

9 Q What was the year that you graduated  
10 from University of Dayton?

11 A 1954.

12 Q Is it fair to say that you've lived  
13 most of your entire life in the greater Dayton  
14 area?

15 A Yes. That's correct.

16 Q Now, would you also please trace for  
17 me your employment history beginning with any  
18 initial job you had and then bring us up to date?

19 A Well, in the summers I always worked  
20 for the county engineers on the road crew. That's  
21 how I got sort of interested in engineering. I did  
22 road resurfacing for them all through high school  
23 and college.

24 Q Approximately what were the years  
25 that you --

0012

1 A From 1947 to 1954.

2 Q What did you do after 1954?

3 A After that what did I do? I went in  
4 the Army for two years.

5 Q And did you serve overseas or in the  
6 United States?

7 A Yes, I was in the -- well, was the  
8 Army of Occupation in Germany, and then we became  
9 guests of the German government in '55, and I  
10 worked for the Judge Advocate General. I did  
11 charge sheets. I was a clerk. I did charge sheets  
12 for general court marshals. After that I got out,  
13 and I came home, and like I said, I went up to Ohio  
14 Northern for a year and decided I didn't want to  
15 practice law either and came back home. I had  
16 always fiddled around with farming and real estate.  
17 I bought a farm and raised some cattle and got into  
18 the real estate business. And then in 1974 the  
19 partners at Heritage Realtors, which was a  
20 residential real estate company, came to me, and I  
21 had went to school with some of them. And they  
22 said, "You know more about business than we do.  
23 We're good salesmen. So why don't you come over  
24 and manage the company?" So I did that up until --  
25 I'm still working for them. We sold the company in  
0013

1 2001, but I've got an office by the back door in  
2 one of the buildings.

3 Q So at the present time you're not  
4 retired. You do do some --

5 A Oh, yeah. I do go -- yeah.

6 Q Let me ask you with respect to  
7 Boesch Exhibit 1 if you can orientate us with  
8 respect to some of the streets that are indicated  
9 on the aerial photograph?

10 A Well --

11 Q Let's start at the top. There --

12 A At the top, okay. That's the --  
13 that used to be the Broadway Bridge. They put a  
14 new bridge in. That was South Broadway coming down  
15 from Dayton and crossed into what was Van Buren  
16 Township at the time and then eventually became  
17 Kettering, and then Moraine detached and they  
18 became a separate township and then they became a  
19 city.

20 Q Well, let's stop with that a moment.  
21 As I'm speaking with you prior to the deposition --  
22 (Whereupon, the deposition was briefly  
23 interrupted.)

24 Q Let me just interrupt. What we're  
25 going to do is I'm going to ask you to actually  
0014

1 mark on the exhibit. So that if you would be so  
2 kind to identify some of the roads by their current  
3 name if you can.

4 A Okay. This was formerly South  
5 Broadway and then Springboro Pike and then now is  
6 Dryden Road.

7 Q Can you mark on the road you're  
8 indicating? Just put -- what you're describing is

9 --

10 A This is currently Dryden Road.

11 Q Okay.

12 A Do you just want to mark an X here?

13 Q Why don't you put a number 1 with a  
14 circle.

15 A Okay. (So complies.)

16 Q And we will --

17 A That's Dryden Road runs all the way  
18 down to the Interstate and under the Interstate,  
19 and then it goes a little southwest and cuts in  
20 back of the old Frigidaire plant.

21 Q Perhaps if you could go ahead and be  
22 seated. I'm going to ask you some questions about  
23 Dryden Road. Has Dryden Road gone under other  
24 names historically?

25 A Yes. It started out as South  
0015

1 Broadway.

2 Q When did it start out as South  
3 Broadway, if you know?

4 A Well, it was South Broadway up until  
5 probably when they built the town. I mean, it's  
6 run all the way through -- Broadway ran all the way  
7 through west Dayton there. It started out as South  
8 Broadway probably with the inception of Dayton. It  
9 was South Broadway for as long as I can remember  
10 from back in the thirties.

11 Q And when -- and did the name change  
12 to another name?

13 A It changed to Springboro Pike when  
14 it became Moraine Township, and I was trying to  
15 think what that year was. See, Springboro used to  
16 come up through there across the old railroad  
17 tracks down south, and then they realigned  
18 Springboro on the other side of the railroad  
19 tracks. That's when they changed the name to  
20 Dryden Road.

21 Q Do you recall approximately when the  
22 name was changed to the current name Dryden Road?

23 A I really would have a hard time  
24 because I didn't pay too much attention after I  
25 left there. And it was changed probably about  
0016

1 three or four years ago, five years ago maybe.

2 Maybe longer than that, ten, but I couldn't swear  
3 to it.

4 Q Again looking at Exhibit 1, there  
5 appears to be a road in the lower right-hand corner  
6 that runs roughly from the northeast to the  
7 southwest.

8 A That road there?

9 Q Yes. Do you know what name that  
10 road --

11 A That's East River Road. That's  
12 always been East River Road.



13 Q Could you mark on Exhibit 1 with a  
14 numeral 2 and circle it what's been identified as  
15 East River Road?

16 A (So complies.)

17 Q There appears to be in the aerial  
18 photograph a river now towards the north and the  
19 northwest?

20 A That's correct. That's the Miami  
21 River, the Great Miami.

22 Q Would you use a numeral 3 and a  
23 circle to identify the Miami River?

24 A (So complies.)

25 Q When was your first opportunity to  
0017

1 visit the area that we've generally depicted on  
2 this Exhibit Number 1?

3 A Probably about 1937. I used to go  
4 over there with my father. There was a farm back  
5 there in the back called the Dunson Farm. He owned  
6 that.

7 Q Would the area that used to be the  
8 Dunson Farm, is that located somewhere on Exhibit  
9 1?

10 A Yeah.

11 Q And why don't you put a number 4 and  
12 circle it in the general area where the Dunson Farm  
13 used to be.

14 A (So complies.) Yeah, it came in  
15 back this road here and ran up this way. It was  
16 like that.

17 Q When you say they came in a road,  
18 does the road have a name, the access road?

19 A No, the road never had a name. It  
20 was just a private lane back -- it ran parallel to  
21 the DP&L high tension wires that run east and west  
22 off of Dryden Road. Right about in here.

23 Q Okay. Just so that the record will  
24 reflect where you're saying, why don't you put a  
25 number 5 on the access road to the old Dunson Farm.  
0018

1 A (So complies.) I put -- did I put a  
2 6 there? I better straighten that out a little  
3 bit. I'm not too good at writing standing up.  
4 That's a 5.

5 Q Now, you were describing that --  
6 something about the Dunson Farm. What was the  
7 relationship of the Dunson Farm to this particular  
8 area?

9 A Well, it was -- you want some  
10 background on this whole area?

11 Q Sure.

12 A Okay. First of all, it started out  
13 as my dad's partner, Cyril Grillot, was in the  
14 fireworks business, and he bought a front part  
15 there and he had his fireworks warehouses there.  
16 They were just tarpaper shacks about 12-by-12

17 standing up on 50-gallon drums because there was a  
18 lot of gravel -- water in through there. So they'd  
19 blow up and the county would get after him. That  
20 was the township then. The county would get after  
21 him. So to give him some backup my dad bought the  
22 Dunson farm in back there. My dad was his  
23 attorney. They became partners, and they put it  
24 together. And then they acquired some more of that  
25 land going north, which would be up Dryden Road  
0019

1 towards the river. And that area they acquired  
2 together, and then they acquired this area down  
3 here, this 40 acres, in about 19 -- well, it was  
4 '44. They got it from Albert Davis.

5 Q Okay. Let me just stop you there so  
6 again the record will clearly reflect where you're  
7 pointing on Exhibit 1. Is the area that -- Cyril  
8 Grillot's fireworks operation, is that area on our  
9 Exhibit 1?

10 A Yeah, that would be -- no, that  
11 would be right here. Yeah, right on Dryden Road.

12 Q Okay. Could you mark that with a 6?

13 A Yeah, this is a 5. This is a  
14 terrible 5.

15 Q Why don't you just -- that's it.

16 A A little better. Okay.

17 Q Then put a 6.

18 A (So complies.) 6 was up here on  
19 this front.

20 Q And you indicated there was a  
21 purchase in 1944 of additional property; is that  
22 correct?

23 A Yeah, this -- there was about 40  
24 acres in this tract back here. It didn't come out  
25 to East River Road. It ran in behind where the  
0020

1 lake is now, where part of the lake is now because  
2 that became a gravel pit afterwards.

3 Q So just so the record is clear, you  
4 are locating --

5 A 7.

6 Q -- a property that is south of the  
7 access road which we had marked previously as 5?

8 A Right.

9 Q And you're putting a number 7 --

10 A 7.

11 Q -- on that property?

12 A Yeah.

13 Q Okay. I interrupted you, for which  
14 I apologize.

15 A Oh, that's okay. No problem.

16 Q Would you begin the history and tell  
17 us some more about --

18 A Now, the two of them got together,  
19 and they had two gravel pits there.

20 Q When you say "the two of them got

21 together," that was your father --

22 A My father and Cyril Grillot.

23 Q Okay. What was your father's name?

24 A Father's name was Horace J. Boesch.

25 And they put everything together and they had two  
0021

1 gravel pits there. The one was Broadway Sand and  
2 Gravel, which is now up on the hill next to 75, and  
3 this was the Schawn gravel pit, and he had a gravel  
4 pit over here where this lake was.

5 Q And that would be in the area around  
6 where you've marked with numeral 7?

7 A 7, yes. That's correct.

8 Q Now, where was the South Broadway  
9 gravel pit?

10 A It was up above this 6 that I didn't  
11 mark too -- right in here. Their gravel pit was  
12 back here.

13 Q Could you use a number 8 and mark  
14 where the old South Broadway gravel pit was  
15 located?

16 A (So complies.) Yeah, that came in  
17 right off of -- directly off of Dryden Road. That  
18 -- that one building still belongs to Mrs. Grillot,  
19 the front part of that ground.

20 Q And you're talking about the  
21 building that's located immediately to the --

22 A Right here.

23 Q -- northeast of where you've marked  
24 number 8?

25 A Yes. That's correct. It would be  
0022

1 to the northeast of where number 8 is right there.  
2 The last building in the whole row coming along  
3 there. She still owns -- Mrs. Grillot still owns  
4 that tract of land in front of that there. I think  
5 -- I don't know, Tim. What is there? About six  
6 acres or eight acres in that or so? Do you know?  
7 Something like that. Along the front on Dryden  
8 Road there she still owns that separately. That's  
9 part of the Grillot and Boesch tract.

10 Q Okay. You were telling us about the  
11 two gravel pits.

12 A Mm-hmm.

13 Q Was there any operation that took  
14 place in the gravel pits?

15 A Oh, yeah. Yeah, they both sold  
16 gravel and hauled gravel out there. Schawn  
17 strictly sold, and Broadway did some of their own  
18 hauling. And they'd haul -- they'd haul top --  
19 they'd take topsoil off -- they'd get topsoil from  
20 across the river, the Miami River. They had  
21 another tract over there. And when the river would  
22 make its bend every spring and the water would come  
23 up, the topsoil would wash in, and so in the spring  
24 then and the summer they'd sell it all off, you

25 know. But Dad and Cyril owned that tract of land,  
0023

1 too. The Conservancy took that years ago.

2 Q During what period of time did the  
3 South Broadway gravel pit operate as a gravel pit?  
4 That's the one we've marked as number --

5 A It operated probably as a gravel pit  
6 from about 19, oh, '42 to -- they were there till  
7 -- let's see. They were there -- South Broadway  
8 was there till -- '42. They were there till, let's  
9 see, sixty -- '66, '67. Then they moved over on  
10 the hill where they are now.

11 Q With respect to the other gravel pit  
12 that we've marked with the number 7, was there a  
13 name for that gravel pit?

14 A No. It was just a fellow by the  
15 name of Bill Schawn who operated it and leased the  
16 ground from my dad and Mr. Grillot.

17 Q Could you spell Mr. Schawn's last  
18 name?

19 A I'm not really sure whether it's --  
20 I think it's S-C-H-A-W-N. Schawn. I think it was  
21 Schawn, yeah. It could have been more Schown, but  
22 I think it was Schawn. Bob Schawn, yeah.

23 Q How long did Mr. Schawn --

24 A Operate?

25 Q -- operate that gravel pit we've

0024

1 marked as number 7?

2 A Well, he marked it from '44 till  
3 about '64. About 20 years. I think he shut that  
4 down then. He had pretty well gotten into the  
5 bottom of it. It started filling up with water.  
6 There's, you know, all gravel under there.

7 Q The gravel pit I believe you've  
8 identified as the Broadway Sand and Gravel pit?

9 A Broadway Sand and Gravel, right.

10 Q It ceased operating as a gravel pit  
11 in approximately 1967; is that correct?

12 A That's right. They moved over on  
13 the hill. They stopped operating the gravel pit,  
14 yeah.

15 Q Was there a reason why they stopped  
16 operating as a gravel pit, if you know?

17 A Well, they were -- they were dumping  
18 solid fill. They were starting to dump solid fill  
19 in there. They -- they started the original dump  
20 in 19 -- about '47 I guess it was.

21 Q Do you know where on the property  
22 the dump started in 1947?

23 A Yeah, it started right up here. On  
24 this ground here was some low ground.

25 Q Why don't you use the numeral 9 to

0025

1 indicate where the dump first started operating.

2 A (So complies.) See, this was the

3 entrance to the dump right here (indicating).

4 Q When you say "the entrance to the  
5 dump," can you mark that perhaps with a -- with a  
6 numeral --

7 A 10?

8 Q Yeah, let's say -- let's use 10 to  
9 mark the original access point for the dump.

10 A (So complies.)

11 Q Are you aware of the types of  
12 material that were placed in the dump beginning in  
13 about 1947?

14 A Oh, they -- it took about everything  
15 because they used to burn it. It used to catch on  
16 fire every night. They'd burn it off.

17 Q Do you recall any of the people who  
18 brought materials to the dump in and around the  
19 1947 time frame?

20 A Well, there was several companies  
21 that dumped there. They had -- Frigidaire used to  
22 bring up things. Monsanto would bring things from  
23 across the river there. And, of course, Walther  
24 Foundry Core is down -- and NCR dumped their  
25 foundry core sometimes because their dump got shut  
0026

1 down over on the hill there.

2 Q Do you recall any other companies  
3 that used the dump beginning in around 1947?

4 A Well, there was -- like I say,  
5 several of the General -- Hobart dumped their --  
6 come down there. It was -- it was one of the few  
7 dumps that was in existence at that time. Most of  
8 'em started later like Powell Road and some of  
9 those, but that one was in existence. Almost all  
10 the general manufacturing in the Dayton area would  
11 use that dump at some time or another, you know,  
12 for off-fall, whatever they had, like sweeping  
13 their floors, stuff like that. I remember  
14 Frigidaire used to dump a lot of shavings in there,  
15 little metal shavings, you know, and things.  
16 Inland came down there and, like I said, Monsanto  
17 came from across the river. They were over on  
18 what's now Edwin Moses. It was Nicholas Road then.  
19 And then Hobart had some stuff they'd bring in and,  
20 like I said, Dayton-Walther and NCR. Let's see.  
21 Who else? Well, that's about it. The General  
22 Motors factories and DP&L and NCR and Monsanto and  
23 Frigidaire, you know.

24 Q Were you -- were you personally  
25 on-site from time to time during the 1947 time  
0027

1 frame to actually see these companies bring  
2 materials in?

3 A Yeah, I used to -- I used to pick  
4 scrap iron over there when I was a kid.

5 Q Was that one of -- one of your jobs,  
6 one of your early jobs?

7 A Yeah, that was -- that was -- yeah,  
8 they sort of used me as a chief flunkie over there.  
9 I used to sell to Patterson Iron and Metal.

10 Q Was there a company or an area  
11 called Charlie Ann's dump or the Cinn dump,  
12 C-I-N-N?

13 A Oh, the Charlie Cinn's dump, yes.  
14 Charlie Cinn's dump was up on one of the parcels  
15 they bought later on near the bridge here.

16 Q Could you identify where the Charlie  
17 Cinn dump was located?

18 A Yeah, it was located --

19 Q Use a number 11.

20 A (So complies.) Yeah, it was right  
21 up -- it was almost on the Conservancy ground even.  
22 Well, it was right up in here where you -- where  
23 you go into Valley Asphalt, yeah. But that was --  
24 a lot of that was metal car parts, scrap iron and  
25 stuff. He dumped a lot of used automobiles, old  
0028

1 automobiles and things in there because they dug  
2 'em up during the Korean War and sold 'em as scrap.

3 Q Again, were you -- what time frame  
4 are we talking about where this Charlie Cinn dump  
5 was operating?

6 A It was there probably in the  
7 twenties and thirties. It was an early one down  
8 there. See, that was low -- all that area was low  
9 in there south of the river there. In fact,  
10 sometimes years ago they -- and I never saw it, but  
11 my dad said the river come up to Dunson's farmhouse  
12 back there.

13 Q Again, focusing on the Charlie Cinn  
14 dump, did you work at that site?

15 A No, no, I never -- that site was --  
16 that site was buried long before they bought the  
17 other and started the other. I think Charlie -- I  
18 don't know whether -- I don't know who acquired  
19 that, but there was another buyer between Cinn and  
20 them. That was part of the old -- there used to be  
21 a truck farm up there years ago, and the house was  
22 over on East River Road there, and I'm trying to --  
23 Snyder. The Snyder farm. That was -- the Snyder  
24 farm was on East River Road. DP&L bought most of  
25 that, but he had land up at that north end, too,

0029

1 and he was a truck farmer back in the turn of the  
2 century, I guess.

3 Q Were you present when some of the  
4 metals were taken out of the Cinn dump?

5 A Mm-hmm.

6 Q Did you actually see the metals  
7 being taken out?

8 A Yes.

9 Q Were there any drums that were  
10 removed from the Cinn dump?

11 A No drums. It was all mostly old  
12 cars. They set up a machine to sort it. On the  
13 bank of the dump there they set up a machine, and  
14 they put like a gravel hopper up there. And they  
15 had a truck that backed up -- a dump truck would  
16 back up and unload this stuff. Then it come down  
17 on a conveyor belt, and this conveyor belt it come  
18 out on a lower level and dumped into a big truck  
19 what was the scrap, you know. It was a magnetic  
20 conveyor belt. It wouldn't take the brass. So we  
21 used to pick the brass off, and it overlapped the  
22 dirt belt, so they recycled it that way.

23 Q Again, focusing on the period  
24 beginning in 1947, did you have a job or some  
25 responsibility at the South Dayton dump site?  
0030

1 A Well, when they were building those  
2 buildings we used to work in those buildings. For  
3 instance, that metal building that Ottoson -- or  
4 Ottoson had -- Ottoson Solvents had, which now is  
5 part of Valley Asphalt's, that was the old Dayton  
6 Automatic Stoker building up on Poe Avenue. We  
7 took that apart when I-75 came through Dayton.

8 Q Approximately what was the date?

9 A Geez, that was in the -- I think  
10 that was the early fifties when 75 came through  
11 Dayton.

12 Q Is the Ottoson building still  
13 visible on this map?

14 A Yes.

15 Q And could you mark that with a  
16 numeral 12?

17 A Yeah. (So complies.)

18 Q What kind of business was Ottoson  
19 in?

20 A He was a chemical solvents company.  
21 He cleaned drums. He'd get 50-gallon drums from  
22 users and clean 'em and recycle 'em and sell 'em  
23 back to 'em.

24 Q Did you ever see any of the drums  
25 out at his facility, the Ottoson facility?  
0031

1 A Did I ever see the drums? Oh, yeah.

2 Q Were there any markings on the drums  
3 that you can recall identifying perhaps the  
4 contents or --

5 A No, I didn't really -- you know,  
6 he'd have -- I'd look across the field there, and  
7 you could look up behind the GMC truck building and  
8 see that he had drums stacked up, but I never got  
9 close enough to really look at 'em and see. I know  
10 he'd just clean the -- clean 'em and recycle 'em  
11 and sell 'em back to the companies. I don't know  
12 who he did business with. I think he's still in  
13 business over near South Charleston or someplace  
14 over there, his son is. I don't know.

15 Q How long was Ottoson in business at  
16 the location that you've identified with the  
17 numeral 12?

18 A Probably someplace in the  
19 neighborhood of eight to ten years.

20 Q Do you recall when he first began  
21 business, that is, when Ottoson first began  
22 business?

23 A Yeah. When we put that building  
24 back together -- we took it apart, like I said,  
25 when 75 came through Dayton, and that was I think  
0032

1 the late fifties when Interstate 75 came through.  
2 I wouldn't swear to it. I'd have to check that  
3 date. But we took that building apart. Then we  
4 took it down to South Broad -- or Springboro there,  
5 Dryden, and stacked it up, and then we were going  
6 to put it back together. My brother and I took it  
7 apart, and Glen Carmichael was with us. And then  
8 my dad's partner and I got in a little argument  
9 about how much they were going to pay us. Well, I  
10 had numbered it all when I took it apart and  
11 lettered it. He didn't know the formula. So I  
12 said, "Well, put it back together yourself." So he  
13 finally paid us what he agreed to pay us.

14 Q How long did Ottoson Solvents  
15 operate in the building?

16 A He was the only tenant in that  
17 building for years. I would say he was in there  
18 sometime eight to ten years at least, and then he  
19 bought this place over at South Charleston.

20 Q So if he started in the 1950s that  
21 would -- he would have been in the building that  
22 you've marked with the numeral 12 till sometime in  
23 the 1960s?

24 A Yes.

25 Q In what area of the site were you  
0033

1 working in the 1947 to 1950 time frame?

2 A Right in this area right back here  
3 where the first dumping part was. Right in the  
4 area 9 here roughly. There was a bank that ran  
5 across on an angle like this.

6 Q And that angle would have gone from  
7 the southeast to northwest?

8 A Yeah, there was a -- there's a  
9 building that the South Dayton dump used for their  
10 office building and warehouse. They gathered  
11 parts. Kenny Grillot, one of Cyril's brothers, ran  
12 the gate. And they come in this way, and then the  
13 dump would run on an angle across there. And we  
14 had that sorting machine set up for pulling out  
15 metal and everything back in here, and the two  
16 banks were there. It was over the bank, you know,  
17 it'd go over the bank. And that's -- that's where  
18 I was mostly in there.



19 Q Could you --

20 A You want it marked?

21 Q You identified an office building

22 that was there in the 19 --

23 A Yeah, well, it's -- it's just a

24 warehouse building. It's about 5,000 square feet.

25 It had an office in the front, but they weren't

0034

1 finished. I mean, it was an unfinished building

2 because the dump stored things. You know, well,

3 like, oh, the turnbuckles from DP&L you know? They

4 used to get 'em. And all the farmers around they

5 used to get 'em from me because I'd use 'em for my

6 fenceposts on the end posts to tighten 'em up, you

7 know. And so anyway --

8 Q Well, let's mark the office

9 warehouse building --

10 A Okay.

11 Q -- with number 13.

12 A Okay. What are we at? 12?

13 Q Number 13.

14 A Okay. 13. Lucky number. Yeah, and

15 that's where it came in and that's where it went.

16 Q Now, you were describing that you

17 worked in the area of the original dump, which

18 we've marked as numeral 9. What were you doing?

19 A Picking scrap iron. Yeah, I used to

20 go down there when I'd get off school and pick

21 scrap iron because it was pretty good money. They

22 had regular guys that did it, you know, but nobody

23 said anything if I did it, you know. So --

24 Q How long were you picking scrap iron

25 in the area around the original dump?

0035

1 A Oh, probably off and on up through

2 the Korean War till about -- oh, I did it till

3 about '52, I guess.

4 Q And during that period, 1947 to

5 roughly 1952, can you identify the kinds of waste

6 materials that were being brought to the original

7 dump site?

8 A I really didn't look that close

9 because, like I said, some scrap iron -- they'd

10 bring everything in. I mean, you know, odds and

11 ends, bad bolts and nuts and stuff from some of the

12 factories and things like that, you know, that

13 General Motors had. I know they all had -- DP&L

14 had stuff that they didn't use, you know, they'd

15 dump in there. And we'd just pick that scrap. You

16 know, some of it -- we got -- we looked mostly for

17 copper and brass. You know, the other was a little

18 -- but, you know, there was household items in

19 there. There was a little bit of everything in

20 there, I'll tell you.

21 Q Now, you mentioned DP&L. Was DP&L a

22 customer of the dump site in the 1947 to roughly

23 1952 time frame?

24 A Oh, yeah. Yeah. And they were  
25 right across the street there. They used to --  
0036

1 well, you know, I guess DP&L had to -- when they'd  
2 dig a hole for a telephone pole, you know, they  
3 couldn't put the same material back around it.  
4 They had to put new. So they'd put it on their  
5 trucks, you know. Well, they'd come over there at  
6 night and dump that when they'd come in before  
7 they'd go to the yard across the street.

8 Q Now, while you were picking scrap  
9 metal in the original dump area, again 1947 to  
10 1952, did DP&L bring over any transformers?

11 A There were some transformers there.  
12 We didn't pay much attention to them then. They  
13 just went in the scrap then. In fact, Cyril's  
14 other brother, Alcine, took care of the  
15 transformers. We didn't really mess with them. My  
16 dad told me never to pick one up. He said,  
17 "There's some kind of chemical in there. Don't  
18 mess with it."

19 Q What did you do after 1952?

20 A Well, I got a job tending bar at  
21 Kramer's when I was in college. I tended bar at  
22 Kramer's, and I worked at Rike's part-time and  
23 different odd jobs, sold Christmas trees.

24 Q That would take us up to when you  
25 enlisted in the Army?

0037

1 A I didn't enlist. They came and got  
2 me.

3 Q Came and got you?

4 A They came and got me.

5 Q And that would be roughly what time?

6 A In October of 1954.

7 Q When you were discharged from the  
8 Army that would have been in, what, 1956?

9 A '56, yes.

10 Q What did you do after that?

11 A I went up to Ohio Northern to law  
12 school for a year at Ada, Ohio. And I decided that  
13 I'd come back, and I got into commercial-industrial  
14 real estate. I had a couple of friends that were  
15 in it, Larry Stein and Stan Dybvig and some of  
16 those guys. So I got in there. I didn't work with  
17 them. We all worked alone. Everybody was --  
18 nobody trusted anybody then, so you worked on your  
19 own. You didn't tell 'em what you had.

20 Q After 1956 when you came back from  
21 the Army, did you have occasions to come ought to  
22 the South Dayton dump site from time to time?

23 A Well, I -- I'd come out there from  
24 time to time, and then in 1960 my father and Cyril  
25 Grillot built a wing on an industrial building.

0038

1 And my father semi-retired, moved down there, and I  
2 had an office down there.

3 Q Could you take the numeral 14 and  
4 identify the location of the office building that  
5 you used?

6 A It's right on the wing of this other  
7 building. In fact, they put two of 'em. On the  
8 other side was Ohio Sealer and Chemical.

9 Q What did Ohio Seal and Chemical do?

10 A They did extrusion with plastics in  
11 regard to -- well, they sold a lot to the  
12 automotive industry, grip panels and things like  
13 that. They got into different things, and they --  
14 well, they tried a shoe last thing, and that didn't  
15 sell too well. And then they worked -- did some  
16 football helmets, you know, and things. And then  
17 they really got into hospital -- they made some  
18 surgical gloves and hospital equipment. Of course,  
19 that was -- they moved down on -- on East River  
20 Road then. They bought their own land down there.  
21 I sold 'em a farm down there.

22 Q For what period of time did Ohio  
23 Seal and Chemical operate in the building that  
24 we've identified with the numeral 14?

25 A They operated in about -- from 1955  
0039

1 to about 1970 in there.

2 Q Now, you were telling me that in  
3 1960 you moved into an office wing that had been  
4 constructed?

5 A Yeah, yeah. That where I just  
6 identified number -- what was that? 14 there?

7 Q Number 14?

8 A 14, yeah. It was right next to the  
9 entrance to the dump there. Between the -- the  
10 entrance to the dump was between the GMC truck  
11 agency and the Ohio Sealer and Chemical building,  
12 which we had a wing on that building for an office.  
13 We put an office wing on that building.

14 Q Could you mark on our Exhibit Number  
15 1 the -- you call it the GMC truck building?

16 A Yeah, that -- yeah, that was the  
17 Fleming-Raney corporation here in Dayton that had  
18 the franchise for GMC trucks, and Bill Backus was  
19 his son-in-law. He ran it. He did a lot of  
20 business with DP&L. That's why he wanted down  
21 there because all of DP&L's trucks were GMC trucks.

22 Q Tell me about your office. Did it  
23 have windows?

24 A Oh, yeah, yeah. Yeah, it's still  
25 got 'em down there.

0040

1 Q What -- what were your views out of  
2 the office windows?

3 A Well, they gave me the front office  
4 because I used to catch all the junk. Anytime

5 somebody'd wander in, they had to get past me. So  
 6 my dad was in the second office, and Cyril was in  
 7 the fourth office, and then I had a couple of  
 8 friends of mine that were building houses were in  
 9 the third office and --

10 Q Have windows?

11 A Yeah. They all had windows, yeah.

12 Q Your office in particular?

13 A Had a front and a side window, yes.

14 Q The front window, what was your view  
 15 out of the front window?

16 A Oh, I looked right across to DP&L.  
 17 Their service building was right across the street.

18 Q So that would have been on the west  
 19 side of the building?

20 A On the west side, yeah, where their  
 21 office service center is there. Yeah, they had a  
 22 building they tore down. There was a big building  
 23 they used to park and unload trucks on.

24 Q Let's mark our Exhibit 1 with a 16  
 25 to indicate where the DP&L service building was  
 0041

1 located.

2 A I put this as 1; right?

3 MR. HOFFMAN: That's 15, Jack.

4 THE WITNESS: 15?

5 MR. CYPHERT: Yeah, we want 16.

6 MR. HOFFMAN: No, that's 15. 16 is going  
 7 to be the next one.

8 THE WITNESS: Yeah, but I'm going to  
 9 finish the 15. I only put a 1 down there.

10 MR. HOFFMAN: Yeah, he's remarking that  
 11 'cause he just put a 1 there instead of a 15.

12 THE WITNESS: This is 16.

13 MR. HOFFMAN: There you go.

14 THE WITNESS: I can't count anymore  
 15 beyond my fingers and toes.

16 BY MR. CYPHERT (Continuing):

17 Q Now, again with respect to what  
 18 we've now marked as -- with a 15, the office  
 19 building, you were explaining that one window  
 20 looked out towards the west towards DP&L?

21 A Well, 15 isn't the office building.  
 22 15 is the GMC truck agency.

23 Q I'm sorry. GMC truck building.

24 A 14 is the office building right  
 25 here. Right there. We had windows down all the  
 0042

1 sides, and in the front all the offices had a  
 2 window.

3 Q I appreciate that. My mistake. I  
 4 just want to make sure that the record is clear.  
 5 So 14 is the office building?

6 A Right. It was a wing on the Ohio --  
 7 on the Ohio Sealer, yeah, Chemical -- yeah, Ohio  
 8 Sealer and Chemical, yeah, plastic extrusion.

9 Q One window looked out towards the  
10 west. What was the other window?  
11 A The other window looked out towards  
12 the building. I looked towards the -- well, the  
13 entrance and looked towards the GMC truck building.  
14 Q Well, what direction would that be?  
15 A North.  
16 Q North.  
17 A Those windows were all north.  
18 Q The front -- the front faced east --  
19 MR. HARBECK: Mike, you said west a  
20 couple times. Do you mean east? I wanted to just  
21 clarify. You've got him pointing one way, but it  
22 looks like it's east.  
23 THE WITNESS: DP&L was east -- on the  
24 east side of Dryden Road, yeah, that's correct.  
25 BY MR. CYPHERT (Continuing):

0043

1 Q So again to clarify, and I do  
2 apologize.  
3 A That's okay.  
4 Q I misspoke. One of your windows  
5 looked out towards the east?  
6 A Towards the east. And the rest of  
7 'em looked north. All the other offices had their  
8 windows look north. I had one window that looked  
9 north and one that looked east.  
10 Q At the time how long were you in the  
11 office?  
12 A What do you mean? Did I use the  
13 office?  
14 Q Did you use the office as your  
15 principal place of business?  
16 A For about six years.  
17 Q From what date to --  
18 A 1960 to 1966.  
19 Q And during that time, did you -- or  
20 during that time, 1960 to 1966, was there a  
21 principal access road to the -- to the landfill?  
22 A Yes, sir, there was.  
23 Q Where was that located?  
24 A That was right to the north right  
25 here where we have number 10.

0044

1 Q And that would have been just to the  
2 north of the office building?  
3 A Yes. Just to the north of the  
4 office, yes.  
5 Q And if you sat in your office, were  
6 you able to see trucks entering and leaving the  
7 landfill?  
8 A Oh, yeah, yeah.  
9 Q Now, during that period of time,  
10 roughly 1960 to 1966, were you able to -- or do you  
11 recall the identity of any of the trucks that used  
12 the main access road to the dump during that period

13 of time?

14 A Well, the ones I really knew the  
15 best were DP&L's naturally. They had white trucks.  
16 Hobart and Monsanto had green trucks. That's about  
17 all the further I can go to identifying trucks. I  
18 mean, GM had different light-colored trucks, but  
19 once in a while the county'd dump something, and  
20 they had yellow trucks.

21 Q The DP&L trucks, did they have  
22 lettering or a company designation on them?

23 A Yes, they had the DP&L logo on the  
24 side of it.

25 Q How about the Monsanto trucks? Did  
0045

1 they have a logo or a designation?

2 A No, they didn't really have anything  
3 that I could notice. You know, I really -- if I  
4 saw 'em, I saw 'em casually. I didn't sit and  
5 look, you know. In fact, if you want to know, my  
6 back was to that. My desk faced out towards the  
7 front of my -- my entrance was off on the south  
8 side of the building.

9 Q Could you describe the physical  
10 appearance of the DP&L trucks?

11 A Well, they -- most of 'em were --  
12 they were probably about a duce and a-half like the  
13 Army has in size, and they had cabs on the front,  
14 and they had work bins on the sides, you know, and  
15 the center part was open, and they could get  
16 material and tools out of that in the center. They  
17 had some dump trucks, but not a lot of 'em. But  
18 mostly they were those big white-colored GMC  
19 trucks, and they had those tool kits on the side  
20 and the center. And some of 'em later on got some  
21 cherry pickers on 'em when they started using  
22 those, and they'd have arms that would get 'em up,  
23 you know, to the high wires and things like that,  
24 ladders.

25 Q Were you able to see any of the  
0046

1 materials that were being carried by the DP&L  
2 trucks?

3 A No, I really wasn't. They were in  
4 -- the materials that they carried were inside  
5 those -- the bins, you know, where -- like I said,  
6 where the bins were on the side of the trucks where  
7 they held materials, you know, there was a bed  
8 inside. It was about half the size of a dump truck  
9 bed because it was encased on both sides, so I  
10 didn't see much, you know, as far as what they  
11 carried. I saw it after it was on the dump, but I  
12 didn't see 'em actually physically carry 'em in.  
13 Once in a while you could see some dirt on the back  
14 of a truck, you know, or something like that.

15 Q Did you ever see the DP&L trucks  
16 bring in transformers?

17           A   No, I can't say that I ever saw them  
18 bring in transformers personally. I saw the  
19 transformers there afterwards, and I know they came  
20 there, and Kenny said they'd bring 'em in. That's  
21 -- that's what they used that warehouse building  
22 was to store those transformers in back then. Then  
23 later on when they shut the dump down Alcine still  
24 would get transformers. So I don't know how he got  
25 'em, but I'd see 'em back in the back when I'd go  
0047

1 back and look at it.

2           Q   Can you describe the transformers  
3 that you saw?

4           A   Yeah, well, the transformers are  
5 sort of like about a -- a little bigger than a  
6 gallon bucket, and they set up on the poles, and  
7 they're gray in color, gun metal gray-like in  
8 color. And that's about all I know about 'em.

9           Q   Approximately how tall were these  
10 transformers?

11          A   Oh, geez. I'd say 18 to 24,  
12 something like that, inches, you know. And then  
13 they reminded you of an old nail keg, those old  
14 wooden nail kegs. They were about the size of  
15 those, you know, and they were gun metal gray, like  
16 I said.

17          Q   Did the transformers have any  
18 markings on them, any lettering or things of that  
19 nature?

20          A   I didn't notice.

21          Q   The transformers that you saw, did  
22 any of them appear to have any oil staining on the  
23 sides?

24          A   I didn't notice, to be honest with  
25 you. I couldn't.

0048

1           Q   I think you indicated that the  
2 transformers were placed in the warehouse building.  
3 What number have we identified that with?

4           A   That's number 13 here.

5           Q   How long would they stay generally  
6 in the warehouse building?

7           A   Well, they -- they'd stay in there  
8 usually -- Alcine would take them apart. That was  
9 one of Cyril's brothers. He'd take 'em apart.  
10 They were after the copper in 'em, and so they'd  
11 take 'em apart. And when he'd take 'em apart, you  
12 know, sometimes he'd take 'em apart in a couple of  
13 weeks. Sometimes he'd leave 'em pile up, you know,  
14 and take 'em apart all in one day, you know, or  
15 something like that. I couldn't say how long they  
16 stayed in there.

17          Q   Were the transformers taken to other  
18 areas of the site for disassembly?

19          A   Yes, after -- after the dump was  
20 shut down in 1955 they built a woodburning

21 facility, and I'm not really that familiar with it  
22 because it was after my father was deceased that  
23 they built it. But Cyril was still alive, his  
24 partner, and he told me that Alcine had a place in  
25 the back there where he would -- he built an  
0049

1 incinerator like -- it was a furnace where he'd  
2 burn wood and stuff like that, pallets and things,  
3 you know.

4 Q Was it called an air curtain?

5 A Something like that. I don't know  
6 what they called it. But I know it was back there,  
7 and I knew where he used to take his transformers  
8 apart back there 'cause he was still getting 'em.

9 Q Could you mark on our Exhibit Number  
10 1 using the numeral 17 where the transformers were  
11 disassembled?

12 A Roughly -- I was trying to think  
13 which entrance. There was an entrance -- when they  
14 shut that entrance down they moved that -- that was  
15 after the dump was closed down they put an entrance  
16 right in here, and Alcine was probably -- it was  
17 back in this area someplace I'd say roughly.

18 Q So let's use the numeral 17 to  
19 indicate your recollection of where the  
20 transformers were being disassembled.

21 A Right in that area there. Might  
22 have been a little further southwest here, too. I  
23 couldn't swear to it 'cause I had my own business  
24 and stuff, and I didn't go back there much unless  
25 -- unless one of the widows had asked me to after  
0050

1 Cyril died.

2 Q When Alcine Grillot was  
3 disassembling the transformers, did you actually  
4 see some of the disassembled transformers in the  
5 area that we've marked with numeral 17?

6 A Back there, yes, mm-hmm. Yeah,  
7 'cause Cyril was complaining about it.

8 Q Was there any material, any liquid  
9 in the transformers?

10 A I don't know. I couldn't tell you  
11 because I never -- never really paid too much  
12 attention to 'em. That was sort of his baby, and  
13 we didn't mess with it. I didn't want to mess with  
14 that like my father told me -- I took his word for  
15 it, too -- there were some bad chemicals in that.

16 Q During the period of time that  
17 Alcine Grillot was disassembling the transformers,  
18 did you ever notice whether he had any persistent  
19 rashes or other discoloration on his hands or  
20 forearms, things of that nature?

21 A Never seemed to bother him.

22 Q You mentioned that there was --  
23 there were additional access roads over a period of  
24 time?



25 A Mm-hmm.

0051

1 Q Maybe this is a good time to -- if  
2 you could, could you identify where the access  
3 roads were located? We had the first one, first  
4 access road we've designated as item 10.

5 A Mm-hmm.

6 Q So could you show us on the map, and  
7 let's use numbers 18 and 19, to designate where the  
8 additional access roads were located?

9 A 18 was right in here, and I'm not  
10 sure whether it was on that side of the building or  
11 that because I think it was on -- what did I say?  
12 19?

13 Q We're going to try 18 first.

14 A 18, 18. (So complies.)

15 Q And maybe could you use a line to  
16 show where the access road came and went?

17 A (So complies.)

18 Q Was there --

19 A It was just a gravel road -- I mean,  
20 dirt road. They didn't really gravel it even that  
21 one.

22 Q Do you recall the period of time in  
23 which the access road that we've designated as  
24 number 18 operated?

25 A That probably operated sometime in  
0052

1 the later seventies.

2 Q Were there any additional access  
3 roads that you were familiar with that led to the  
4 interior of the dump site?

5 A Yeah. Well, this -- this old road  
6 that came down along here is still open, I think.  
7 There's one that comes through here, but they're  
8 just dirt roads. I mean, they weren't really  
9 access roads. They were just used for some of  
10 those pallets and stuff. But there's one that  
11 comes right -- where is that? Right through here.  
12 Yeah, that one.

13 Q Could we mark that with number 19?

14 A (So complies.) Yeah, it's above  
15 there. Yeah, you come through that palletizing --  
16 where that palletizing place was there where that  
17 pallet --

18 Q How long did the access road that  
19 we've marked as number 19 operate?

20 A I don't have any idea, to be honest  
21 with you. It was just -- I don't know whether  
22 Alcine was using it for a permanent access road or  
23 just his own road for egress and ingress back there  
24 or not to that curtain, you know. I couldn't swear  
25 to it because after my father died in '80 I just

0053

1 didn't really -- when they divided everything up  
2 and I ended up with an undivided one-eighteenth I

3 sold it -- promptly sold it to Cyril. I wanted  
4 nothing to do with it.

5 Q Let me just see if we could maybe  
6 approximate the date. Again, what we've marked  
7 with the numeral 19, an access road, was it in  
8 existence when you first visited the site in 1947?

9 A Oh, no. No. No, that was just --  
10 that was -- the only road there was the road into  
11 Broadway Sand and Gravel pit back there, and that  
12 was just their own service road. I mean, it wasn't  
13 an egress and ingress road for the general public  
14 or anything else.

15 Q Again, focusing on the access road  
16 that we've marked with number 19, did it exist  
17 during the 1960-'66 time frame?

18 A No.

19 Q So it would have come afterwards?

20 A Afterwards, yeah, yeah.

21 Q Was there any access to the dump  
22 site from the north?

23 A Well, there was through -- where  
24 Valley Asphalt goes in there's a -- there was a  
25 road going back there, but as far as I can remember  
0054

1 -- well, I was trying to think when Valley Asphalt  
2 first leased that ground. John Jergens, I guess.

3 Q Can you identify on Exhibit 1 the  
4 location of Valley Asphalt and mark that with  
5 number 20?

6 MR. STRANG: What time period?

7 MR. CYPHERT: I haven't gotten that far.

8 MR. STRANG: Thank you.

9 BY MR. CYPHERT (Continuing):

10 Q Okay. We've marked with a 20 the  
11 location of Valley Asphalt on Exhibit 1. Do you  
12 know when Valley Asphalt first started operating at  
13 that location?

14 A I think it was in the fifties, but I  
15 wouldn't swear to it.

16 Q What was the nature of Valley  
17 Asphalt's operations?

18 A They manufactured blacktop for  
19 roads.

20 Q During the early 1950s when they  
21 started, did they have storage piles?

22 A Not to the extent they have 'em  
23 today.

24 MR. STRANG: Objection.

25 THE WITNESS: They didn't have them to  
0055

1 the extent -- I didn't really see any. They were  
2 mostly gravel piles that they used in making  
3 material, you know, like American Aggregate's and  
4 Valley Asphalt.

5 BY MR. CYPHERT (Continuing):

6 Q Did there become a time in which old

7 asphalt was stored on the Valley Asphalt property?

8 A Yes, sir, there did become a time,  
9 but, you know, that was probably in the I'd say  
10 eighties. And that's just an estimate because I  
11 didn't spend a lot of time back there, to be honest  
12 with you.

13 Q But you did spend some time?

14 A Just once in a while I'd go back to  
15 see Doyle. Doyle James had had a wrecking yard  
16 behind the -- behind the truck agency there.  
17 'Cause he had a big wrecking yard at one time, car  
18 parts, auto parts, salvage.

19 Q Where was the Doyle auto wrecking  
20 yard located?

21 A Right behind Fleming-Raney's  
22 building right here. What number are we on? 21?

23 Q Let's mark it 21.

24 A (So complies.) Yeah, that was  
25 Doyle's building there. He sold used car parts,  
0056

1 salvage parts. He salvaged cars. He handled used  
2 trucks. In fact, he used to get some of DP&L's  
3 trucks used just for sale 'cause sometimes  
4 Fleming-Raney would take 'em in trade. They'd just  
5 let Doyle unload 'em for 'em because they were  
6 pretty well used up.

7 Q Let me go back to the kinds of  
8 trucks and the identification of those trucks that  
9 you saw during that 1960 to 1966 period in which  
10 you were in the office that we've marked as -- with  
11 the numeral 14. What type of trucks did Monsanto  
12 use?

13 A They just used an ordinary dump  
14 truck. They just used an ordinary dump truck was  
15 what they brought up. But that wasn't from the big  
16 -- they weren't from the big plant down in  
17 Miamisburg. They were from a plant over on  
18 Nicholas Road, which is -- they call it -- I don't  
19 know if it's Edwin Moses Boulevard up that far or  
20 not now, but they were on Nicholas Road over there.

21 Q Do you know what kinds of materials  
22 --

23 A No.

24 Q -- were in the truck?

25 A No.

0057

1 Q Could you see into the truck area?

2 Was it a stake bed or a solid --

3 A It was usually a dump truck, a solid  
4 side truck. You couldn't tell what was in there,  
5 you know. I don't know what they handled.

6 Q Did it have a door on the back?

7 A Had a tailgate on it.

8 Q Were you able to see any types of  
9 containers or things of that nature?

10 A They used to be some -- those

11 cardboard containers -- well, like cardboard. It  
12 was corrugated board with metal tops, you know,  
13 around the tops, metal round -- hoops like around  
14 the tops, but I don't know what was in 'em or  
15 anything. I never --

16 Q What kind of trucks did you see that  
17 you understood to be from General Motors?

18 A Well, they had some different kinds.  
19 They -- they were mostly the dump truck kind. You  
20 know, they -- they had a -- Frigidaire had a big  
21 scrap yard down there for shavings down there on --  
22 well, Dryden Road that ran behind their plant down  
23 there. They used to load 'em out with a front end  
24 loader and put 'em on a dump truck and bring 'em up  
25 because the city was getting on 'em. Their pile  
0058

1 was getting too high.

2 Q Other than scrap metal, are you  
3 aware of any other waste products that were brought  
4 in from Frigidaire?

5 A No, I didn't notice any.

6 Q Did you see any trucks indicating  
7 that they were owned by Inland?

8 A Inland Division of General Motors?

9 Q Mm-hmm. Yes, sir.

10 A Yeah, I'd see Inland trucks in  
11 there. They made the ice trays and also made the  
12 carbines and all that during the war, yeah. In  
13 fact, I got one of their carbines.

14 Q What kind of trucks did Inland use?

15 A Inland used GMC trucks generally.

16 Q What's the nature of the truck?

17 Dump truck, stake bed?

18 A Mostly dump trucks. They didn't use  
19 stake beds. They -- mostly they'd come in in dump  
20 trucks, you know. Once in a while you'd see an  
21 enclosed truck, but not -- very, very seldom from  
22 them. They'd bring -- they'd bring just dump  
23 trucks. Mostly GM -- mostly the General Motors  
24 stuff came in dump trucks. They didn't have --

25 Q Were you able to observe the nature  
0059

1 of the materials in these dump trucks from Inland?

2 A No. No. I didn't.

3 Q Did you have an understanding --

4 A Of what it was?

5 Q -- of what was coming from Inland?

6 A Well, they -- a friend of mine said  
7 they used to make these ice trays and stuff out  
8 there at Inland, and they'd scrap some of them that  
9 weren't to specification or something like that,  
10 you know. Probably early on they were metal, and  
11 then later on they were probably plastic, you know.  
12 Only thing I can tell you is what a friend of mine  
13 told me, Jim Raiff, that I went to school with said  
14 they made out there. His dad was out there at

15 Inland.

16 Q Did you observe any trucks from a  
17 company called Harris-Seybold?

18 A No, Harris-Seybold dumped there I  
19 know. The dump had some accounts, and they used to  
20 turn 'em in to Dad and Cyril. And once in a while  
21 I'd help them with the books, just read off the  
22 accounts, you know, what they paid for the month,  
23 you know, and stuff like that. Because Alcine and  
24 his brother leased the dump ground, and then they  
25 paid a percentage on the overage on dumping. You  
0060

1 know, if a company dumped there more than normal,  
2 you know, they'd allow so much and then if there  
3 was an overage they'd charge 'em. And I'd see that  
4 company name. I had seen the Harris-Seybold  
5 company name, but I didn't know what they dumped or  
6 when, you know. A lot of this came from the  
7 records. You know, once in a while I'd help with  
8 the records. They'd get short.

9 Q The records that you've referred to,  
10 do those records exist today?

11 A No. If they do -- no, they're gone  
12 by now. See -- yeah, I -- when my father died they  
13 disposed of his offices and things. You know, my  
14 Uncle Bob was the attorney for the estate, and he  
15 disposed of that stuff, and I just didn't -- while  
16 I was a co-executor of the estate, I didn't pay  
17 much attention to it. I let my stepmother and him  
18 do the work. I didn't.

19 Q When did your father pass away?

20 A 1979.

21 Q Do you recall any other entries on  
22 these books or ledgers that you had occasion to  
23 look at?

24 A Oh, they -- some of the others,  
25 yeah. They had NCR. See, some of 'em they'd give  
0061

1 a key to the dump years ago 'cause some of 'em  
2 dumped at night, and they'd give a key to it. And  
3 they had gates up there, just two farm gates that  
4 came together with a chain link and a padlock on  
5 it. If you wanted to knock it down, you probably  
6 could. But some of those companies had keys to  
7 that lock because they'd dump at night, you know,  
8 so I didn't see 'em.

9 Q Could you show me on our Exhibit  
10 Number 1 where the gate with the lock was located?

11 A Yeah.

12 Q And maybe designate that with a  
13 numeral 22?

14 A Okay. Let's see. Kenny's building  
15 was outside. (So complies.) Yeah, they were right  
16 back there just beyond Doyle's building there,  
17 which was the junkyard.

18 Q Can you identify the companies that

19 dumped at night?

20 A Oh, some of the ones that had  
21 foundry cores would dump at night, you know, like  
22 -- oh, I was trying to think of the foundry that  
23 was up there on Cincinnati Street. Finn's, Sam  
24 Finn's Foundry. And then Walther would dump their  
25 foundry core at night.

0062

1 Q A company called Walter (sic)?

2 A Walther, yeah. Dayton-Walther,  
3 whatever that is, yeah.

4 Q Do you recall any other names of  
5 companies that dumped at night?

6 A Well, NCR dumped at night. They had  
7 foundry core, too. I had to laugh. They're  
8 selling that Pointe Oakwood. Somebody said, "Look  
9 at all that black soil," and I said, "Look at all  
10 that foundry sand." When you come down Far Hills  
11 Avenue you can't miss it.

12 Q Can you describe the nature of these  
13 foundry cores or --

14 A Yeah, they were -- they were the  
15 cores they used for molding -- molting (sic) lava  
16 -- or metal, you know, and they were hard core  
17 sand. They'd break up eventually, but they were  
18 foundry cores. They had these trucks that had  
19 these dump beds on the back that would lift up and  
20 flip over and drop 'em out, you know.

21 Q What was the color of the casings?

22 A They were usually dark, a dark red,  
23 dark brown, dark black.

24 Q Did you ever notice anybody dumping  
25 these foundry cores that were light in color,

0063

1 either white or a beige color?

2 A I never saw one of those, no. But I  
3 really -- I'll tell you what. I'd see the foundry  
4 cores later on after they were dissolved once in a  
5 while. You know, I didn't really -- they -- they  
6 used to dump 'em across the river, too, but then  
7 they stopped 'em over there.

8 Q Was there any particular place at  
9 the site in which the foundry cores were dumped?

10 A No. It's wherever the bank was.  
11 They'd just dump 'em over the bank. They didn't  
12 pick out any particular sites.

13 Q Did DP&L, Dayton Power and Light  
14 dump at night?

15 A They had a key, yes.

16 Q So let me see if I can summarize.  
17 We -- those companies that you understood had keys  
18 were DP&L, NCR. Were there any other companies?

19 A Well, like Dayton-Walther, you know,  
20 their foundry was up there on old Broadway up  
21 there, you know. They had keys. And I know  
22 Frigidaire had a key to it, too. So some of those

23 -- they had regular accounts, you know, and they'd  
24 dump.

25 Q How about Monsanto? Did Monsanto  
0064

1 have a key?

2 A I couldn't swear to that. Those are  
3 just the main ones that I knew. You know,  
4 sometimes I'd leave -- I'd be over at the office  
5 there at 7:00, 7:30 at night, you know, doing  
6 something, and I'd see some trucks come in. But I  
7 couldn't swear, you know, who they all belonged to.  
8 Some of 'em I knew; some of 'em I didn't.

9 Q Did you ever observe a truck or  
10 trucks identified by the name Peerless?

11 A Peerless Transportation and Storage?

12 Q (Nodding in the affirmative.)

13 A Yeah, they probably -- they had  
14 trucks in there, but I didn't know what they dumped  
15 or what they handled or anything.

16 Q Did you ever see any trucks with  
17 identification of IWD?

18 A IWD?

19 Q Industrial Waste Disposal.

20 A Not right offhand, no. That was --  
21 were they the ones that bought Dayton-Walther?

22 Q I don't know that, but I'm just  
23 asking if there was any identification on these  
24 trucks?

25 A I -- I -- I --

0065

1 Q No recollection at this point?

2 A No recollection of that, no.

3 Q Were there any other companies of  
4 which you are aware dumped at night at the  
5 facility, at this site?

6 A Not really. Not really. I just --

7 Q Did Ottoson Solvents dump at the  
8 site?

9 A I wouldn't say dumped at the site.  
10 He cleaned his drums out. But, you know, they were  
11 supposed to be empty drums, but, you know, there's  
12 always some residue left in 'em. And I don't know  
13 really -- he -- I know he had a couple of old drums  
14 that collected the residue, you know, when he was  
15 cleaning 'em out, but that's about it. I don't  
16 know. He -- well, I think he took a backhoe and  
17 dug a hole back behind his building and dumped a  
18 couple when they got full.

19 Q Do you have any personal  
20 recollection of drums being disposed of by Ottoson  
21 Solvents?

22 A No, I don't. I don't have a  
23 personal -- I knew he had those two drums that set  
24 outside the building there. Any residue he'd dump  
25 in there, and then he'd dump 'em when they were --

0066

1 I know Doyle was complaining. He says, "I think  
2 he's dumping on my ground," on his leased ground,  
3 you know, that had the wrecking yard down below him  
4 there.

5 Q Was it your understanding that  
6 Ottoson was dumping solvents onto the ground when  
7 these barrels got full?

8 A Well, that's what I understood, but  
9 I never saw it. I couldn't swear to it. But, you  
10 know, I knew he had the two drums outside of his  
11 back door there and --

12 Q You actually saw those drums outside  
13 the back door?

14 A Yeah, mm-hmm.

15 Q What was the nature of them? Were  
16 they rusty, painted?

17 A Well, they were all kinds of  
18 different things. But what he'd do is he'd clean  
19 'em up. You know, steam clean 'em, you know, and  
20 take 'em down to the metal if they were worth  
21 saving, you know. If they were too rusty, he'd  
22 take 'em and dump 'em over on the dump. But  
23 ordinarily he'd clean 'em and -- clean 'em up and  
24 then repaint 'em. Some painted black, some painted  
25 a different color, but mostly painted 'em black,  
0067

1 sprayed 'em.

2 Q You mentioned in your testimony just  
3 this moment that there were some unusable drums  
4 that Ottoson would dispose of at this dump site?

5 A Yeah, they were -- they were rusted,  
6 you know. In other words, they were rusted, too  
7 far gone to save 'em and rehab 'em, you know, and  
8 recondition 'em. So he'd dump 'em. But they were  
9 empty drums. I mean, they weren't anything with  
10 any material in 'em of any kind.

11 Q Did you ever have any occasion maybe  
12 to inspect any of those drums up close to see if  
13 there was or was not material?

14 A Closest I got to Dean Ottoson was  
15 having lunch with him once in a while.

16 Q Is Dean Ottoson still alive?

17 A I don't know whether he is or not.  
18 Somebody said -- said his son is still operating  
19 the business, Ottoson Solvents, over in South  
20 Charleston, Ohio, on the way to Columbus, but I  
21 couldn't swear to it.

22 Q I believe you indicated that you  
23 were in the office building that overlooked the  
24 DP&L service building as well as the entrance to  
25 the landfill during the period 1960 to roughly  
0068

1 1966. What did you do after 1966?

2 A Well, after 1966 I had some fellows  
3 I went to school with, and they asked me to open a  
4 residential real estate office. And I had just



5 bought a building down in Bellbrook, so I said,  
 6 "Yeah, I'll open one down there," and then I did  
 7 for a couple years. Then after that the guys from  
 8 Heritage came after me and says, "Why don't you  
 9 come over here? We'll make you a partner and  
 10 everything." I said, "Fine." That started the  
 11 headaches. I went over there, and I got more.

12 Q After 1966, did you -- did you come  
 13 back and visit the site from time to time?

14 A Oh, once in a while I'd come over  
 15 there. My father and Cyril had an office over  
 16 there. I'd go over to see my dad, you know, and  
 17 talk to him every once in a while and things like  
 18 that, you know.

19 Q During those occasions that you came  
 20 back to visit your father and Cyril after 1966, did  
 21 you see any trucks entering the dump site and  
 22 dumping materials?

23 A Not really that I noticed. I think  
 24 they moved the entrance down. See, the dump got  
 25 closed down in 1955, and they could only take solid  
 0069

1 fills after that. Because they used to -- the dump  
 2 used to catch fire every night, and it'd come right  
 3 up the river, and the City of Dayton didn't like to  
 4 be smoked every morning. So they got an injunction  
 5 against them and shut 'em down, the county did. So  
 6 they only took solid fills after that.

7 Q The solid fill, do you recall the  
 8 nature of the solid fill after 1955 what that --  
 9 how could you describe it?

10 A Well, you'd get a lot of road  
 11 material. You'd get materials -- concrete from  
 12 tearing up -- buildings being torn down and some  
 13 housing. They didn't like to take wood. That's  
 14 when Alcine built that wood machine down there,  
 15 whatever it was, and that's when they'd take the  
 16 wood. You know, they'd wreck a house, and they did  
 17 a lot of business with those people.

18 Q Let me ask you some questions  
 19 regarding your overall experience and observations  
 20 at the South Dayton dump and landfill site. Could  
 21 you rank the identity of trucks that used this site  
 22 by numbers? In other words, was there a company  
 23 that seemed to use the site more than other  
 24 companies?

25 A Well, DP&L did. They were over  
 0070

1 there a lot.

2 Q Next in line, who would have used  
 3 the site on a lesser frequency than DP&L?

4 A Probably the General Motors plants,  
 5 Frigidaire and Inland and them. I mean  
 6 collectively. Frigidaire used to come up a lot,  
 7 yeah.

8 Q After GM, Frigidaire, who would be

9 next in order of use of the site?

10 A Well, it's really pretty tough to  
11 rank 'em, you know. You just -- NCR would be in  
12 there a lot, you know. Of course, they were all  
13 close, you know, and if they had -- even if they  
14 had a partial load, they'd come and dump it, you  
15 know. The guys that worked in the yards, you know,  
16 they'd just use some kind of an excuse to get out,  
17 you know, sometimes, so they'd go down to the dump.  
18 Kenny'd give 'em coffee, and they'd sit there and  
19 talk. Just human nature.

20 Q You've mentioned in previous  
21 testimony that Monsanto trucks used the facility  
22 for dumping. Can you give us an order of  
23 magnitude, if you will, between the number of  
24 Monsanto trucks you saw and the number of DP&L  
25 trucks?

0071

1 A Oh, I tell you, I saw DP&L trucks  
2 every day. I didn't see a Monsanto truck every  
3 day. You know, you couldn't miss them. I mean,  
4 everybody did business with 'em over there. Doyle  
5 used to buy their used trucks, and Fleming-Raney  
6 sold 'em new trucks, you know. So they were in and  
7 out of there all the time. And they'd dump back  
8 there. You know, like I said, those turnbuckles I  
9 used to get, you know -- God, I'd have guys give me  
10 orders for 'em for their farm fences.

11 Q Could you describe what a turnbuckle  
12 is?

13 A Well, it's a -- it's a -- it's got a  
14 screw on both ends with an I hook, and you tighten  
15 it up and it'll tighten wire up or whatever is  
16 hooked to the ends of the I hook. I used to  
17 tighten my fence posts -- my corner fence posts up,  
18 you know, when you put two corners together and you  
19 run the braces between 'em and you put one of those  
20 turnbuckles in there. Man, you could turn that up  
21 really tight. It doesn't go anyplace.

22 Q Did Dayton Power and Light Company  
23 operate any electric generating facilities in close  
24 proximity to the South Dayton dump and landfill  
25 site?

0072

1 A Not while I was there. They had  
2 that -- they used a lot of coal for generating  
3 because they produced a lot of fly ash. They had a  
4 big fly ash pit behind their buildings back over  
5 there, and then they dumped 'em in the gravel pit  
6 down on East River Road, old Moraine Ready Mix. In  
7 fact, what's-his-name -- Miller-Valentine built  
8 some buildings on 'em and they floated on 'em down  
9 there. They had to float the footers on that fly  
10 ash.

11 Q Did DP&L to your knowledge dispose  
12 of any fly ash at the South Dayton dump site?

13           A   Oh, there was probably -- Cyril was  
 14 always talking to 'em, my dad's partner. He wanted  
 15 to put a pipeline under the highway to -- to pump  
 16 fly ash over across and fill up some of those  
 17 gravel pits in. And then he had a -- they got into  
 18 -- he got into a fly ash concrete business. They  
 19 mixed fly ash with concrete, and it worked really  
 20 well.

21           Q   Where was the fly ash/concrete  
 22 business located?

23           A   Well, it really -- it was down there  
 24 in Moraine. It was another fellow that was a  
 25 friend of Cyril's from -- Cyril was from up in  
 0073

1 Versailles which -- up in Mercer County up there,  
 2 Shelby County, and all those French men would come  
 3 down and they'd get together and make those deals.  
 4 It was someplace down there, and I don't know where  
 5 really, to be honest with you. I never paid a lot  
 6 of attention to it.

7           Q   Are you familiar with a company  
 8 called Dayton Fly Ash Company?

9           A   Dayton Fly Ash. It might have been  
 10 one of Cyril's deals. I couldn't swear to it. He  
 11 was making his own deals. My dad didn't get into  
 12 that part of the stuff. My dad was strictly in the  
 13 -- he was more interested in building the  
 14 industrial buildings and stuff like that. I think  
 15 he was a frustrated contractor.

16           Q   Getting back to the fly ash that was  
 17 generated by --

18           A   DP&L.

19           Q   -- DP&L, did you have an  
 20 understanding that at least some of that fly ash  
 21 was disposed at the South Dayton dump?

22           A   It might have been. I couldn't  
 23 swear to that. I couldn't swear to that. Like I  
 24 said, I'd see the trucks, but I didn't check what  
 25 was in 'em a lot of times.  
 0074

1           THE VIDEOGRAPHER: Excuse me, sir. I  
 2 have five minutes left on this tape.

3           MR. CYPHERT: Do you wish to take a break  
 4 now and we can --

5           THE VIDEOGRAPHER: That would be  
 6 preferable.

7           MR. CYPHERT: Let us take a break now so  
 8 we can change tape and we'll come back on camera.

9           THE VIDEOGRAPHER: We are now off the  
 10 record. The time is 11:26.

11           (Whereupon, a recess was taken.)

12           THE VIDEOGRAPHER: We are now back on the  
 13 record. The time is 11:45.

14 BY MR. CYPHERT (Continuing):

15           Q   Mr. Boesch, I've got a couple of  
 16 follow-up questions to some of the inquiries I made

17 earlier this morning.

18 During the period of time that you were  
19 at the site, whether it be from 1947 to '52 or 1960  
20 to '66, did you ever see a truck with the name  
21 Container Service, Inc. or anything of that nature?

22 A Not that I can recall. I've seen  
23 their trucks before, but I don't -- they could have  
24 came in the dump, but I don't recall 'em.

25 Q Container Service, Inc. what did  
0075

1 they do?

2 A They -- they made containers as far  
3 as I know. I don't know what they really did, to  
4 be honest with you.

5 Q Are you familiar with a company  
6 called Johnson Controls?

7 A Johnson Controls I'm familiar with  
8 the company, yes.

9 Q Did Johnson Controls have a  
10 manufacturing facility in the greater Dayton area?

11 A I don't know. I couldn't swear to  
12 it.

13 Q Do you know whether or not Johnson  
14 Controls brought any materials for disposal at the  
15 site?

16 A Not that I know of.

17 Q Are you familiar with the names of  
18 any of the drivers for Dayton Power and Light that  
19 used the site to dispose of materials?

20 A Well, I know some people that worked  
21 at Dayton Power and Light, yes, from down in the  
22 country where I lived.

23 Q How about drivers that actually  
24 brought the trucks into and disposed of any of the  
25 materials that they had?

0076

1 A Well, I know some men that worked in  
2 the yard. Whether they were drivers or not, I  
3 don't know.

4 Q Do you recall their names and can  
5 you give those to me?

6 MR. HOFFMAN: Yeah.

7 THE WITNESS: Well, the one that I know  
8 the best is Jim Tharp.

9 BY MR. CYPHERT (Continuing):

10 Q Any others?

11 A Well, Frank Madsen's deceased. And  
12 then Jim has another fellow that he worked with,  
13 but I haven't talked to him.

14 Q Mr. Tharp is located in the general  
15 Dayton area?

16 A Dayton area, yeah.

17 Q Do you know approximately where?

18 A Yeah, he lives on Ferry Road in  
19 Bellbrook.

20 Q Do you recall the name of his

21 friend?

22 A No. I didn't know the name of his  
23 friend. He just told me he had a friend that  
24 worked there, too.

25 Q Any other names of drivers that may  
0077

1 have used the site?

2 A I don't -- no, I don't have any.

3 Q How about the names of people who  
4 may have worked at the DP&L service center on the  
5 east side of Dryden Road?

6 A Not right offhand, no, I can't think  
7 of any.

8 Q Are you familiar with any other  
9 drivers for any of the other companies that you've  
10 identified?

11 A No.

12 Q Were there other workers at the  
13 South Dayton dump and landfill site that may still  
14 be alive today?

15 A Well, Mr. Grillot had three sons,  
16 and two of 'em are still alive. One's deceased.

17 Q Can you give me the names of the two  
18 sons?

19 A Edward. Edward and John.

20 Q Where does Everett (sic) Grillot  
21 live?

22 A I don't know where Edward lives. He  
23 roams around.

24 Q How about John Grillot?

25 A I don't know where John lives  
0078

1 either. He's a CPA with somebody, and I don't know  
2 who he's with even.

3 Q Are both Edward and John do you  
4 think in the greater Dayton area still?

5 A Yes, I think so. Yes.

6 Q Did they have any children that may  
7 have worked or been at the site?

8 A No. Edward's about the only one  
9 that probably -- he painted some of the buildings,  
10 but that's about all I know.

11 Q Is there a Dave Grillot?

12 A David Grillot was Alcine's son.

13 Q So both Edward and John were  
14 Cyril's?

15 A Cyril's, yeah.

16 Q Cyril's sons. And how about Alcine?  
17 Did Alcine have children?

18 A Yes. He had a -- he had a son,  
19 David, and he had a daughter. And I think she  
20 lives in Chicago, but I couldn't swear to it.

21 Q Do you recall what her name is?

22 A No, I don't, to be honest with you.

23 Q Does David Grillot live in the  
24 greater Dayton area?

25           A   I don't know where David lives.  
0079

1           Q   Do you recall any other workers that  
2 may have, you know, worked picking scrap or helping  
3 with disposal?

4           A   Well, there was a fellow named  
5 Hayduc, but I don't know what his first name was or  
6 anything mostly about him. He was an older man.

7           Q   Can you spell his last name?

8           A   Well, I'm going to just have to take  
9 a guess at it. I never saw it in writing. I  
10 didn't know -- I think it was H-A-Y-D-U-C. I don't  
11 think there was a K on the end of it.

12          Q   What did Mr. Hayduc do?

13          A   Well, he picked scrap in general.

14          Q   Any other employees over the years  
15 that you can recall?

16          A   No. Well, Doyle James was in on it  
17 originally. Then he left and went in the used car  
18 -- wrecking cars, you know, junkyard there.

19          Q   Is Doyle James still alive?

20          A   No, he's deceased.

21          Q   Any other workers that may be alive  
22 that you can recall?

23          A   They were itinerant workers a lot of  
24 'em. They'd come down and pick and then you'd  
25 never see 'em again. Nobody knew their name even.  
0080

1   I don't know -- Alcine must have. He paid 'em, but  
2 I don't know anything about 'em really.

3          Q   You mentioned earlier that on  
4 occasion you saw the books or the ledgers that  
5 Alcine had kept.

6          A   No, those were my dad's and Cyril's.  
7 They weren't Alcine's. I never saw any of Alcine's  
8 records.

9          Q   The books and records that your  
10 father and --

11          A   Cyril kept.

12          Q   -- Cyril kept, what was the nature  
13 of the document? Was it in a hardbound book, loose  
14 papers?

15          A   No, they had -- they had -- they had  
16 a file called the South Dayton Dump File, and then  
17 they had a file with South Dayton Dump/Alcine File,  
18 and they just kept 'em in a file cabinet there, the  
19 paper. The things that pertained to it they would  
20 -- I know that they -- they had -- Cyril had worked  
21 out an overage charge with Alcine on certain  
22 things. They had regular customers. Then if they  
23 went over, then they had to pay more in the way of  
24 remuneration to Cyril and Dad because, you know, he  
25 leased for a flat fee. He leased the ground, and  
0081

1   then they got an override on the amount that was  
2 used, you know.

3 Q Did you ever see in looking at those  
4 records something in the nature of a contract or a  
5 purchase order, things of that nature?

6 A No. I never -- I never really  
7 delved into 'em that deep, you know. It's just  
8 like you have an office next to somebody, you know,  
9 and you just hear some things and, you know, that's  
10 about it.

11 Q Did you ever see billing statements  
12 that either Cyril or your father would send to  
13 customers for charges for dumping?

14 A They wouldn't send any. Alcine  
15 leased the dump. The dump was his operation. He  
16 leased the ground from 'em. And the only thing  
17 they had a flat fee that he paid so much a month  
18 for leasing the ground. And then Cyril said,  
19 "Well, you got some of these companies that are  
20 dumping more than other companies and, you know,  
21 we're filling up faster than we anticipated." So  
22 Cyril came up with this overage charge, and that's  
23 when Alcine used to bring up papers to him every  
24 month. And I never -- Cyril had the last office,  
25 and I never got near that operation.

0082

1 Q So it was -- was Cyril charging  
2 Alcine the overage charge?

3 A Yes, mm-hmm.

4 Q Just to understand, Cyril was not  
5 sending any invoice or statement directly to a  
6 customer?

7 A No, no, no. Any customer was -- a  
8 customer of the South Dayton Dump was a customer of  
9 Alcine's, was not a customer of Cyril and my  
10 father. Just like I lease you a building, you  
11 know, they leased him the ground.

12 Q Oh, with respect to the scrap metal  
13 that you saw at the site, did you ever see wires  
14 and pipes, things of that nature?

15 A Oh, yeah. There was wires and  
16 pipes, yeah. There was -- there's about everything  
17 you can think of. You know, you get brass -- brass  
18 fittings. I mean, you know, they took household  
19 stuff and everything when they were really going  
20 strong, you know, when they could burn. When they  
21 stopped burning, they stopped taking all that.  
22 They just took industrial stuff then.

23 Q Did you ever see piping, you know,  
24 like you might see for natural gas or things of  
25 that nature?

0083

1 A Oh, you mean cast iron piping they  
2 used to use for gas lines?

3 Q Sure.

4 A Yeah, I'd see some of that. Scraps  
5 of it, but nothing to amount to anything. There  
6 was no big truckloads of it. I don't know.

7 Q How about cable, cables? Did you  
8 see cables?

9 A Oh, you mean the ones that come off  
10 the big rolls --

11 Q Yeah.

12 A -- like cable wires for telephone  
13 wires, line wires, stuff like that?

14 Q Sure.

15 A Yeah, there used to be some of that  
16 in there, scrap of it. There would be scrap ends,  
17 you know, and just -- and I never knew where it  
18 came from as far as that goes, I mean, you know.

19 Q Other than Dayton Power and Light  
20 Company, are you aware of any other electric  
21 utility company that utilized the South Dayton  
22 site?

23 A No.

24 Q Again, I want to go back to your  
25 earlier testimony. I believe that you indicated  
0084

1 that you were reading off of some sort of paper  
2 with respect to names of companies. Could you  
3 elaborate on what you were reading from?

4 A No, it was a sheet that Cyril had.  
5 And he said, "I want to check this," and he said,  
6 "Just read off the company names." And I read off  
7 some of the names that were there at the dump. I  
8 told you some of them that were there. Wasn't a  
9 big long list.

10 Q Did you have any understanding as to  
11 whether or not some of those names were customers  
12 of the site?

13 A They may have -- yeah, they were --  
14 I would assume they were customers of Alcine  
15 because Cyril was checking his overage. My dad  
16 wouldn't have any -- he said, "If you want to do  
17 that, that's your business." He said, "I just  
18 want to lease 'em the ground, and I don't want to  
19 get involved with their business," you know. And  
20 Cyril said his brothers were taking advantage of  
21 him, so he charged 'em that overage.

22 Q Do you know how Cyril determined if  
23 there was an overage or not for which an additional  
24 charge --

25 A Yeah. He'd walk that dump and see  
0085

1 who was dumping in there. He'd walk that dump all  
2 the time. In fact, one time his shoe caught on  
3 fire.

4 Q Could you tell me again the names of  
5 the customers that Cyril had on that sheet of paper  
6 that you read?

7 A Well, there was -- there was the  
8 General Motors plants there. There was Monsanto  
9 was there. Hobart was there. Dayton-Walther was  
10 there. NCR was there. DP&L was there. It was



11 just their bigger customers, the ones that had keys  
12 primarily. That's where Cyril thought Alcine was  
13 bypassing him with the ones that were dumping at  
14 night, you know. That's what he had a list of.

15 Q Any other names that you recall that  
16 were on that list?

17 A Not right offhand, no, sir.

18 MR. CYPHERT: Okay. Well, that's all the  
19 questions I have at the moment for Mr. Boesch.  
20 Thank you very much for your patience.

21 Other counsel at the table may wish to  
22 ask you questions regarding your history at the  
23 site, but we've all agreed to take a lunch break.  
24 And so we're going to recess from 12:00 noon, which  
25 is just about now, until 1:00 o'clock, and then  
0086

1 we'll reconvene at 1:00 o'clock and continue on  
2 with some of the questions from the other counsel.  
3 Okay?

4 THE VIDEOGRAPHER: We are now off the  
5 record. The time is 11:58.

6 (Whereupon, the deposition was recessed  
7 for lunch at 11:58 o'clock p.m. and reconvened at  
8 1:10 o'clock p.m.)

9 THE VIDEOGRAPHER: We are now back on the  
10 record. The time is 1:10.

11 CROSS EXAMINATION

12 BY MR. CAMPBELL:

13 Q Good afternoon, Mr. Boesch. How are  
14 you?

15 A Fine. Thank you.

16 Q My name is Drew Campbell, and I  
17 represent Dayton Power and Light.

18 A Yes, sir.

19 Q It's great to meet you, and we  
20 really appreciate your taking time to come out here  
21 this morning and again this afternoon, so we'll try  
22 to be fairly short with our questions, but we  
23 appreciate your time here.

24 I just want to clarify a couple things.  
25 I want to make sure I understood the -- some of the  
0087

1 time frames here. You said that you -- well, let  
2 me just sort of back up and ask you. When did you  
3 say you graduated from high school? What year?

4 A '49.

5 Q '49. And you said that you had done  
6 some piece work at the South Dayton dump site while  
7 you were in high school in that time frame?

8 A Yes, sir.

9 Q And what were those years again?

10 A The years were '47 to the Fall of  
11 '48 actually.

12 Q And that's when you were -- I think  
13 you said you were picking scrap?

14 A Yes, I just picked scrap iron. I'd

15 go over and pick up some spending money.

16 Q And you did that just on the  
17 weekend, Saturdays, something like that?

18 A Yes. Saturdays, yeah, I'd go over.  
19 Then sometimes Sundays because they -- some of the  
20 buildings they built they'd go over on Sunday. My  
21 dad would go over on Sunday and check 'em out.

22 Q So you were basically there mostly  
23 just on the weekend for maybe a day, maybe a little  
24 more?

25 A Right, right. Yeah.

0088

1 Q And then after Fall of '48 what did  
2 you do then?

3 A Well, I went to -- I graduated from  
4 high school down in Georgia actually. Then I went  
5 to Georgia Tech for a year.

6 Q So that would have been from '48 --

7 A '48 to '49 -- or I mean '49 to '50.  
8 Then I came back in the summer, and I worked on the  
9 county engineers and didn't pick any scrap iron too  
10 much. Once in a while I'd go over there with my  
11 younger brother. We'd go around, see what we can  
12 scrounge up, but then --

13 Q I don't mean to interrupt. I just  
14 wanted to clarify.

15 A Sure.

16 Q You came back to the Dayton area  
17 then about the Spring of 1950?

18 A Yes, that's correct, the spring and  
19 summer.

20 Q And then it was that summer you  
21 began to work with the county engineers; is that  
22 right?

23 A No. I had worked with them when I  
24 was in high school.

25 Q But did you say that you continued  
0089

1 to work with the county engineers after you got  
2 back?

3 A Yes, all through -- through --  
4 through college I worked in the summers for 'em.

5 Q How much time were you spending out  
6 at the South Dayton dump site after you got back  
7 from Georgia Tech?

8 A I -- I'd go over on Saturday  
9 mornings with my younger brother, and we'd pick  
10 scrap Saturdays mostly, yeah.

11 Q So pretty much what you did before;  
12 you were picking scrap mostly on Saturdays?

13 A Yeah, we'd go -- we'd go -- that's  
14 when they could still burn the dump, you know, and  
15 they'd burn all the residue off and the scrap would  
16 be there, you know. And we'd go along and look and  
17 pick it up, you know, and get a wheelbarrow full or  
18 pickup truck full, you know, and then he'd take it

19 down and sell it.

20 Q And when did you graduate from UD?

21 A '54.

22 Q So from the time you returned from  
23 Georgia Tech until the time that you graduated from  
24 University of Dayton, it's your best memory that  
25 you were at the dump site maybe Saturdays, once in  
0090

1 a while on Sundays?

2 A Yes, yes.

3 Q And during the school year when you  
4 were studying at University of Dayton, were you  
5 picking scrap then also?

6 A Oh, sometimes I'd go over to the  
7 afternoons, you know, especially in '52 -- '51 and  
8 '52 when they were -- during the Korean War they  
9 were really looking for scrap, you know, to make  
10 munitions and armor and stuff with, you know, and  
11 we'd pick then. I'd go over and pick some, yeah.

12 Q And then following your graduation  
13 in 1954, what did you do next?

14 A I got drafted and went in the  
15 service in the Fall of '54, in October of 1954.

16 Q And when were you discharged?

17 A I was discharged in September, first  
18 week in September of 1956.

19 Q And what did you do after that?

20 A I went to Ohio Northern at Ada,  
21 Ohio.

22 Q That was 1956 through 1957?

23 A Yes.

24 Q Okay. You were studying law there?

25 A Yes, sir.

0091

1 Q Didn't care for that much?

2 A No. It wasn't -- there was too many  
3 in the family anyway.

4 Q Can there ever be too many lawyers  
5 in the family?

6 A I don't know.

7 Q Careful now.

8 A There was five of 'em, and I didn't  
9 need to be low man on the totem pole.

10 Q And what did you do after you left  
11 Ohio Northern?

12 A I went into the real estate  
13 business.

14 Q And that was back here in Dayton?

15 A Here in Dayton, yes, sir.

16 Q And where was your -- where were you  
17 located here in Dayton?

18 A I had an office in the Reibold  
19 Building.

20 Q Spell that, please.

21 A R-I-E-B-O-L-D (sic).

22 Q And where was the Reibold Building

23 located?

24 A It was located on Main Street  
25 between Fourth and Fifth on the west side of the  
0092

1 street. It's a county building now, I guess.

2 Q And that was from 1957 until when?

3 A 1960.

4 Q Now, between 1957 and 1960, were you  
5 spending much time out at the dump site?

6 A Oh, I'd go down there once in a  
7 while with my father. I had an office down the  
8 hall with him. He was in the Reibold Building,  
9 too. He had his law office in the Reibold  
10 Building. I had an office down the hall because I  
11 got free secretarial service.

12 Q So you would go out to the dump site  
13 occasionally just with your dad?

14 A Just occasionally. Just go out with  
15 him and see. They were building a building or  
16 something, you know, the different buildings they  
17 built over the years.

18 Q And then in 1960 what happened?

19 A Well, in 1955 they got an injunction  
20 against 'em and stopped 'em from burning, and when  
21 they stopped 'em from burning that's when they just  
22 took solid fill. Mainly the companies they had --  
23 the corporations -- they leased the ground to my  
24 dad's partner's brother -- two brothers who  
25 operated actually the landfill.

0093

1 Q And that was Alcine and --

2 A And Kenny.

3 Q Kenny?

4 A Kenneth.

5 Q And you mentioned Kenny a couple of  
6 times this morning. Kenny was Alcine's brother?

7 A Yes. And Cyril's brother, yes.

8 Q So Alcine and Kenny were the ones  
9 who actually were in charge of the operations of  
10 the dump?

11 A Yes. They just -- my dad and Cyril  
12 leased 'em the ground. Then Cyril thought Alcine  
13 was dumping too much too fast, and he wanted it to  
14 last longer. So he got this overage scheme going  
15 with Alcine, but my dad wouldn't get involved in  
16 it. He said, "If you want to charge him overage,  
17 that's your business. Just increase the rent." He  
18 says, "I don't want to mess around with counting  
19 somebody else's books."

20 Q So you moved out to the building at  
21 the dump site in 1960?

22 A 1960, yes.

23 Q And I know you pointed that out on  
24 the map. Maybe you can tell me again which --  
25 pointing up there which building was the building

0094

1 you were working in in 1960?

2 A This little building right here was  
3 a wing put on an industrial building right there.  
4 I don't know what that number is. I can't even  
5 read my own writing. That's terrible.

6 MR. HOFFMAN: That's 14.

7 THE WITNESS: 14?

8 MR. CAMPBELL: Number 14.

9 THE WITNESS: 14, yeah.

10 BY MR. CAMPBELL (Continuing):

11 Q And how long did you work in that  
12 building?

13 A I was in that building until 1966.

14 Q You're still in the real estate  
15 business during this time period?

16 A Yes, sir.

17 Q I think you mentioned that one of  
18 the offices that were rented to some friends of  
19 yours who were also residential builders?

20 A Yes, Louis Silveri, and Pat Maloney  
21 was the salesman for 'em. I went to UD with him.  
22 Lou built houses on scatter lots in Drexel and  
23 Northridge. He built these package houses.

24 Q And then while you were there  
25 between 1960 and 1966, then you didn't have any  
0095

1 role in the operations of the dump then; right?

2 A None whatsoever, no. I just had --  
3 I had an office there, and once in a while my dad  
4 would ask me to help him with something, things  
5 like that, but nothing to do -- we never had  
6 anything to do with really the mechanical operation  
7 of the dump. It was just the leases and the  
8 buildings and things like that. I did a couple of  
9 the leases in the buildings for him -- for him and  
10 Cyril. They -- of course, they handled the  
11 paperwork.

12 Q And as for the paperwork, that was  
13 something that you didn't deal with either;  
14 correct?

15 A That's correct. I didn't deal with  
16 that.

17 Q I think you said earlier that there  
18 were records kept in a filing cabinet in a  
19 different office, but you never really delved into  
20 that?

21 A No, I never delved into that. No,  
22 no.

23 Q And as far as you know, those  
24 records don't exist anymore?

25 A To the best of my knowledge, I don't  
0096

1 think so. I -- I -- Alcine's family -- well, David  
2 -- his one son David and his daughter's in Chicago,  
3 but I don't even know where she is or what her  
4 married name is, and those records -- the filing

5 cabinet was taken to my stepmother's house, and  
6 then they disposed of 'em out there.

7 Q And that would have been in 1979,  
8 1980 when your dad passed?

9 A Yes. Passed away in 1979, yeah.

10 Yeah, 'cause Cyril -- Cyril kept some of the  
11 records for a while, kept the office, but the rest  
12 were taken and disposed of.

13 Q And your stepmother is she alive  
14 today?

15 A Ninety-nine. She was at a  
16 basketball game last night.

17 MR. CYPHERT: As a player?

18 THE WITNESS: No, she didn't play. She  
19 was clapping, though. After a while she wasn't too  
20 happy. I left at half time.

21 BY MR. CAMPBELL (Continuing):

22 Q Which game was that?

23 A Huh?

24 Q Which game was that?

25 A UD and Buffalo last night. It was

0097

1 about as bad as Duke and Ohio State the night  
2 before.

3 Q Well, it's all a question of  
4 perspective, isn't it?

5 A Yeah.

6 Q We thought that was pretty good --

7 A Yeah.

8 Q -- those of us from Columbus.

9 I think you said 1966 you changed  
10 locations?

11 A Yeah. I bought a building down at  
12 Bellbrook. I had a farm out near Bellbrook where I  
13 lived, and I bought a building down there. And I  
14 had some fellows that I went to UD with, and they  
15 asked me if I would open a residential office. And  
16 I said, "Yeah, I'll open one." Now, I kept an  
17 office over in Moraine, but I never used it that  
18 much. I just kept some desk stuff there and things  
19 like that, you know.

20 Q Just so I'm tracking with you, when  
21 you say an office in Moraine, you mean the office  
22 that was on Dryden Road?

23 A Dryden Road, yes, sir. 2011 Dryden  
24 Road. I even got some stationery from South  
25 Broadway.

0098

1 Q How long did you stay in the  
2 building -- I'm sorry. You just told me. The  
3 building you bought in 1967 was where again?

4 A Bellbrook.

5 Q Bellbrook. And how long did you  
6 stay in that building?

7 A I stayed there till 1973.

8 Q Now, was that when you became a

9 partner in the other business?

10 A Yeah, went to Heritage. Uh-huh,  
11 yes, sir. 2000 Hewitt Avenue.

12 Q And how long did you stay involved  
13 with Heritage?

14 A I'm still there.

15 Q Are you still in the same building?

16 A Still in the same building. I was a  
17 missionary. I'd go out and open offices. They  
18 always -- I had the office by the back door over on  
19 Hewitt there, and I could always get in and out  
20 fast. So I'd go out and open the new ones and come  
21 back.

22 Q So after you moved to Bellbrook in  
23 1967, I think you said that you would come back  
24 occasionally to see your dad at the site?

25 A Yeah, maybe -- he didn't go to  
0099

1 lunch, but we'd come back and just talk about  
2 things, you know, in general.

3 Q And from that time period, the 1967  
4 moving forward, you weren't involved in the  
5 operations of the dump then; correct?

6 A I was never involved in the  
7 operations. I was just there every day, you know,  
8 but I had these two offices -- I'd go between 'em.  
9 I had a couple of people that worked out of that  
10 office that still did commercial and industrial,  
11 and I never mixed the two. The residential was  
12 down in Bellbrook, and the commercial-industrial  
13 was still up in Moraine there, South Broadway --  
14 Spring -- Dryden Road. I'll get it straight yet.

15 Q My question's a little bit  
16 different. After 1967, the reason you would go  
17 back to the site would be just to visit your dad;  
18 right?

19 A Yeah, and I had -- I had two agents  
20 who worked out of there that worked  
21 commercial-industrial, yeah, they took over my  
22 office.

23 Q And you weren't spending a lot of  
24 time out, you know, back with Alcine --

25 A No, I'd go back and see Kenny  
0100

1 because I'd get parts that I'd use on the farm, you  
2 know, and stuff like that. Just -- you know, he'd  
3 gather stuff up. Kenny -- the whole front end of  
4 that building Kenny had all kinds of stuff that he  
5 gathered off of there. You know, nuts and bolts  
6 and things like that, which you really could never  
7 get enough of sometimes on a farm, you know, gates  
8 and everything. I never had any gates, but bolts  
9 to put 'em together, so --

10 Q Now, you were asked earlier whether  
11 -- if you knew whether any fly ash had ever come to  
12 the site from DP&L, and I didn't quite track your

13 answer on that. Do you know whether DP&L ever sent  
14 fly ash?

15 A They said there was some that came  
16 over 'cause Cyril was always interested in that fly  
17 ash. He thought there was a good use for it. And  
18 he used to talk with some of the guys from NCR  
19 downtown. I was trying to think -- well, Stuart  
20 wasn't there anymore. I was trying to think who  
21 the president was that was down there that Cyril  
22 would go down and talk to him at the old gas and  
23 electric building over next to the courthouse there  
24 on the alley there by the old courthouse where  
25 Courthouse Square is now. They tore that down.  
0101

1 That's where the Mead building is now, I guess.  
2 But he was always interested, and I know he had  
3 some of it over there, but I never paid any  
4 attention to it.

5 Q So I think then what you -- if I'm  
6 understanding what you just said, you said that  
7 Cyril told you that fly ash had come from DP&L;  
8 right?

9 A Yeah, 'cause he was always  
10 experimenting with it. He had a friend of his from  
11 Versailles where he was from originally -- well, he  
12 was born and raised here in Dayton. His family was  
13 up there. He -- he was always wanting to mix fly  
14 ash and cement together.

15 Q So other than what Cyril told you,  
16 you don't have any direct knowledge yourself of  
17 where that fly ash came from?

18 A I never -- never saw 'em haul any  
19 fly ash. They had that big pit over behind the  
20 plant there, the yard on the other side on the --  
21 it would be the east side of Dryden Road now behind  
22 the yard there they had that big plant.

23 Q And you never saw a DP&L truck bring  
24 fly ash into the site; is that right?

25 A I never saw a DP&L truck bring fly  
0102

1 ash into the site, no, sir. I just saw them bring  
2 odds and ends. When they'd dig a telephone pole,  
3 you know, they told me that -- Frank Madsen lived  
4 down in Bellbrook, and he was one of the Township  
5 Trustees and I was on the Zoning Board. And I used  
6 to get some of those parts from Frank, too. And  
7 anyway he said that they couldn't put the same dirt  
8 back in the hole that they put -- where they dug a  
9 telephone pole hole. They had to put fresh dirt  
10 in. So I know they'd haul some of that in there,  
11 you know.

12 Q You mentioned also that you thought  
13 that DP&L had a key to the lock at one of the main  
14 gates coming into the site; correct?

15 A Yes, sir.

16 Q Now, how did you know that DP&L had



17 a key?

18 A Well, at 7:00 o'clock at night when  
19 Kenny left at 6:00 and Alcine left at 6:00 to go to  
20 Lehman's down the street, local watering hole, the  
21 gate was closed and locked. And I'd be over there  
22 at 7:00, 7:30, 8:00 o'clock and doing work,  
23 paperwork and preparing things, and I'd see 'em go  
24 back in there. I know the gate was locked. So I  
25 knew that Cyril had told me and Alcine that they  
0103

1 gave keys to select customers that had to dump at  
2 night, you know, 'cause they had things.

3 Q So it was your assumption that  
4 because you saw trucks back in the dump after 6:00  
5 o'clock that they must have had a key; correct?

6 A Yes.

7 Q And you said that you saw trucks  
8 back there after 6:00 o'clock at night. Did you  
9 see DP&L trucks back there after 6:00 o'clock at  
10 night?

11 A Yes.

12 Q And so your assumption was they must  
13 have had a key because they were back there;  
14 correct?

15 A Yeah, they weren't back there too  
16 much at night. They were usually -- because, you  
17 know, I think they got off at 4:30 or 5:00 o'clock,  
18 and they were usually getting off work. They'd  
19 come unless somebody got hung up someplace and they  
20 had something they had to dump. And there was a --  
21 right at the -- where the entrance was to the south  
22 end of DP&L there off East River Road, I think  
23 that's still an entrance there where Dryden Road  
24 and East River Road split. There was a service  
25 building there, and I don't know whether it's still  
0104

1 there or not, but I know the foreman in there had a  
2 key 'cause they used to go pick it up there. They  
3 used to have to say they picked it up there.

4 Q And how did you know that the  
5 foreman -- was this a foreman at DP&L?

6 A Yes.

7 Q And how did you know that he had a  
8 key?

9 A Frank Madsen told me. He was a  
10 foreman at DP&L.

11 Q Did Frank Madsen have the key?

12 A Yeah. He knew where it was. He  
13 knew right where it was.

14 Q Well, let me just clarify. Did he  
15 say -- did he actually have the key or did he say  
16 he knew where the key was?

17 A He knew where the key was.

18 Q And that's what he told you?

19 A Yes, yes, that they had a key, too,  
20 and I saw some of their trucks go in there. Not --

21 not often because they were usually -- when it was  
22 time to quit, it was time to quit. They weren't  
23 there late at night, but once in a while I'd see a  
24 truck go back in there if I happened to be there  
25 some evening after 6:00 because I knew they locked  
0105

1 the gates at 6:00. They didn't go back there just  
2 for a joy ride, I mean.

3 Q Now, you had testified earlier today  
4 that Alcine was the one who used to handle  
5 transformers; correct?

6 A Yes, sir.

7 Q I think you said that you didn't  
8 want to go close to those because you thought there  
9 was --

10 A My father said, "There's some  
11 chemicals in there they'll probably do you some  
12 health harms." He said, "You don't want to touch  
13 'em. You don't want to mess with 'em," he said,  
14 you know, so I never did.

15 Q You stayed away from the  
16 transformers; right?

17 A I stayed completely away from 'em,  
18 yes, sir.

19 Q And you were never with Alcine when  
20 he was doing work on the transformers?

21 A I'd see Alcine doing work on the  
22 transformers in the back of the dump building there  
23 where they stored some of 'em, but I never got  
24 close to 'em because I just -- I know what he was  
25 doing. He was taking copper out of 'em.

0106

1 Q Well, let me just make my question a  
2 little clearer. When I say you never saw him, you  
3 didn't actually work with him; right?

4 A No, no.

5 Q When you say you saw him, you saw  
6 from a distance; right?

7 A Yes, yes.

8 Q And a pretty far distance?

9 A No, it was a 5,000 square foot  
10 building, and then it was 50 -- 50 by a hundred,  
11 and maybe I'd be halfway back in the building  
12 looking at something. He was always back in the  
13 back corner. They had a big overhead door back  
14 there.

15 Q So you just left him alone to do  
16 that?

17 A I just left him alone.

18 Q You didn't pay any attention to what  
19 he was doing?

20 A No.

21 Q And I take it you never saw  
22 transformers coming into the site; correct? You  
23 just saw the transformers after they were dropped  
24 off?

25           A   Yeah, I saw 'em after they were  
0107

1   dropped off.

2           Q   You never saw 'em coming into the  
3   site; right?

4           A   They were usually in the truck. I  
5   never saw 'em come in the site. I didn't -- you  
6   know, I didn't sit and look out my window and say,  
7   "This truck's" -- I mean, getting counts on 'em or  
8   anything. It's just if I happened to be looking  
9   that way. My desk faced the other way, and I'd  
10   whirl around sometimes. I'd be thinking of  
11   something trying to put something together and see  
12   if I could make it work in this building or that  
13   building or square footagewise, and you'd think  
14   around -- you'd sort of stargaze and think a minute  
15   what can you do, and I'd see 'em come by, and I  
16   just didn't pay much attention to 'em. But they  
17   were coming by. I mean, you know, they were there.

18          Q   Yeah, yeah. And with respect to the  
19   transformers then, you don't recall seeing a  
20   transformer coming in a DP&L truck either; right?

21          A   I never saw 'em because they had the  
22   closed trucks. They had the working bins on the  
23   side, you know. In other words, they were about  
24   the width of a dump truck, but they had the bins on  
25   the side, and they had a narrow bed in between  
0108

1   there. That's where they hauled 'em. They had a  
2   tailgate on the truck usually. And I never really  
3   saw in 'em. I just seen the outside of the truck.  
4   I saw the transformers when they were there. I  
5   knew they were DP&L's transformers, but I never saw  
6   'em move 'em there, physically come in.

7          Q   And how did you know they were DP&L  
8   transformers?

9          A   There's no other utility company in  
10   the area.

11          Q   So you assume they were DP&L  
12   transformers?

13          A   Well, yes, I guess you could call  
14   that an assumption, but --

15          Q   And then you don't know what  
16   condition these transformers were in when they came  
17   to Alcine; right?

18          A   Well, I knew that they -- evidently  
19   they were nonworking transformers, and he was after  
20   the copper inside of 'em. I knew that. But as far  
21   as -- I assumed they were nonworking. I don't  
22   think -- you know, some of the stuff they threw  
23   away was good, but not the -- I don't think they'd  
24   throw a good transformer away.

25          Q   So you don't know whether these  
0109

1   things had been partially dismantled before Alcine  
2   got 'em?

3           A    I don't -- I don't think they were  
4 partially dismantled. The reason I don't, I don't  
5 think he'd sit there all day and take 'em apart if  
6 there wasn't any copper or anything left in 'em.

7           Q    You don't know whether any of the  
8 oil had been drained out of them before he got  
9 them?

10          A    I don't know anything about the  
11 chemicals or oil or whatever was inside of 'em, no,  
12 sir.

13          Q    And you never saw Alcine pour oil  
14 out of one of those; right?

15          A    No, I never did. I saw it on the  
16 ground, but I never saw him pour it.

17          Q    And I take it you never saw Alcine  
18 pour oil into the landfill; right?

19          A    No, but I saw where it had been  
20 poured. He used to walk right outside that  
21 building and dump it on the ground.

22          Q    Yeah, but you never saw him --

23          A    Actually do it?

24          Q    -- actually take the transformer or  
25 piece of the transformer or oil from the  
0110

1 transformer and throw that into the landfill;  
2 right?

3           A    No.

4           Q    You described the transformers as  
5 being about 18 to 22 inches in circumference.

6           A    Mm-hmm.

7           Q    And I think you said maybe a foot or  
8 two high?

9           A    Foot and a-half to two feet, yeah,  
10 something like that. I -- it reminded me of a keg  
11 of nails you used to see in the old hardware  
12 stores, something like that. There was two tiers  
13 to it. It sort of had a bubble shape to it, but I  
14 didn't -- the bottom was a little longer than the  
15 top. But, you know, I didn't make a real study of  
16 'em. I didn't plan on using 'em or anything.

17          Q    Right. You used to keep your  
18 distance from 'em; right?

19          A    Yeah, you're right. I did. That's  
20 one thing I believed my father when he told me,  
21 "Stay away from 'em."

22          Q    What time period was it that you  
23 recall seeing transformers that were about that  
24 size? Like 1960 or 1965 or 1955 or 1975? When was  
25 that?

0111

1           A    Well, it was -- let me see. About  
2 the sixties I started seeing -- seeing 'em over  
3 there about. Well, maybe it was a little earlier  
4 than that maybe. Late seventies, but early -- '78,  
5 '79, '60, someplace along in there. Then I really  
6 didn't see 'em till we built that office wing down

7 there in '60.

8 Q Okay. So you remember seeing the  
9 transformers then right around 1960 --

10 A Yes.

11 Q -- that were about that size?

12 A Yes.

13 Q I think you mentioned also earlier  
14 that after your dad passed that Alcine continued to  
15 work with transformers back at the dump; correct?

16 A Mm-hmm.

17 Q And that would have been sometime  
18 after 1980?

19 A Yes. Yeah. Yeah, he had a machine  
20 back there that burned wood. They were -- they  
21 were getting solid fill, and they were getting a  
22 lot of houses that were torn and wrecked and they'd  
23 have wood. And they didn't want the wood in the  
24 landfill. They wanted it solid then, you know, and  
25 so as a result he built a fire thing down -- down  
0112

1 in the back down there right about in here, I  
2 think.

3 Q That was the air curtain destructor?

4 A Air curtain thing or something. He  
5 burned fire wood in there and pallets and all kinds  
6 of things that they'd gather up and take down  
7 there. And they had a front end loader, and they'd  
8 load the wood out and take it down there and burn  
9 it. That's where he worked on his -- had his  
10 transformers was down there then 'cause they had  
11 leased the dump building. That was no longer their  
12 building. A tool company, Jerry -- oh, what was  
13 his -- he leased the building. He had a tool  
14 company in it.

15 Q Mr. Boesch, I just wanted to clarify  
16 one thing that you said. You said you never saw  
17 Alcine pour any transformer oil into the landfill.  
18 Did you ever see him dispose of a transformer in  
19 the landfill, ever see him throw it in there?

20 A No, I never saw him throw it in  
21 there.

22 Q And I take it then you don't know  
23 what Alcine did with these transformers  
24 specifically after he was done extracting whatever  
25 he wanted to?

0113

1 A I think he probably sold 'em for  
2 scrap. I don't know. Are they pot metal or what  
3 kind of metal? Do they have any scrap value? You  
4 can probably go up and ask Inky up there at the  
5 corner of Perry and Franklin. He can tell you  
6 where they went 'cause he used to sell a lot of  
7 'em, Alfred Engelhart up there.

8 Q So as far as you know, he was -- he  
9 was selling the whole thing for scrap whatever he  
10 had?

11 A Well, after he'd get the copper out.  
12 I knew he took the copper out. I mean, you know,  
13 we all knew he took the copper out. That's what he  
14 was really taking 'em apart for was the copper in  
15 there. The copper and the brass were the two  
16 really valuable metals in the scrap operation, and  
17 so he disposed of 'em. He must have sold 'em to  
18 junk dealers, pile 'em up and sell 'em to the junk  
19 dealers, you know.

20 Q Mr. Boesch, I really appreciate your  
21 time today.

22 A Okay. Thank you.

23 Q Thanks. And I hope UD does a little  
24 better next time they see Buffalo.

25 A Yeah, I hope so, too. Thank you.

0114

1 Q Thanks.

2 CROSS EXAMINATION

3 BY MS. WRIGHT:

4 Q Mr. Boesch --

5 A Yes.

6 Q -- you won't remember me, I'm sure,  
7 but we actually met at your prior deposition in  
8 2006. My name is Vicki Wright, and I represent  
9 Pharmacia Corporation, which was formerly known as  
10 Monsanto Company.

11 Thank you for being here today. I  
12 wouldn't want to have to remember all the things  
13 you're remembering, so I appreciate your effort.

14 I just have a few follow-up questions,  
15 and I'm really going to base those on what I  
16 understood you to say today. And I'm asking them  
17 because, again, I was at the deposition in 2006  
18 that EPA took, and you testified a bit about  
19 Monsanto, and prior to that you had also executed  
20 an affidavit. Does that sound familiar to you?

21 THE WITNESS (To Mr. Hoffman): Which one  
22 was that?

23 MR. HOFFMAN: I know there was one, but  
24 it's not ringing a bell for me other than there was  
25 one.

0115

1 THE WITNESS: Was it when we took the  
2 deposition?

3 BY MS. WRIGHT (Continuing):

4 Q Prior to the deposition.

5 A Prior to the deposition.

6 Q There was an affidavit that you and  
7 Mr. Hoffman worked together on. Does that sound  
8 familiar?

9 A It probably is. I don't --

10 Q And if you don't remember, it's a  
11 fair answer to say, "I don't remember."

12 A I don't remember it directly. It  
13 could have happened. I won't deny it, but I won't  
14 say that I remember it.

15 Q Sure.

16 A But --

17 Q It's a fair answer. I don't always

18 remember what I ate for breakfast, so --

19 And, again, because of what you said  
20 today and because of your deposition in 2006, which  
21 was a few years ago, I just want to make sure that  
22 I understand your recollection as to Monsanto. You  
23 testified today that they -- the Monsanto trucks  
24 did not have identification on them; is that  
25 correct?

0116

1 A Yes, that's correct.

2 Q Okay. And you described them as a  
3 casual customer. Is that what you were saying?

4 A Well, you know, I -- I didn't -- I  
5 observed things that happened, but I didn't sit and  
6 watch, you know.

7 Q Sure.

8 A And they'd come in -- I had -- we  
9 had two cousins that worked for Monsanto, and so,  
10 you know, I used to kid 'em about dumping their  
11 junk down there. My one cousin was down at the  
12 Mound, and my dad's cousin was President of  
13 Monsanto, Carroll Hochwalt. But, anyway --  
14 Monsanto, Carroll Hockwalt. I used to kid those  
15 guys once in a while. I'd say, "Boy, you're  
16 dumping your junk up there. You're trying to  
17 poison the rest of the family."

18 Q But that was all in good family  
19 jest; right?

20 A Yeah. I really didn't mean it, but  
21 I would see their truck up there occasionally, and  
22 primarily it came from what they called the  
23 Nicholas Road --

24 Q Right.

25 A -- plant at the time.

0117

1 Q Right.

2 A It wasn't from the Mound.

3 Q Right. And so it was occasional --

4 A Yeah.

5 Q -- as --

6 A I'd see it once in a while. You  
7 know, I'd park my car out in front. I'd go out to  
8 get in my car. Maybe I'd see their truck come by.  
9 I used to go across the street where the GMC agency  
10 was. One of the partners over there, Bill Backus,  
11 he had a -- he and Charlie Sherman had a car  
12 leasing company, and when one of their leases would  
13 go bad I could pick up a good car for about half  
14 price. So I was always checking about it. So I  
15 was -- so and -- you know, I know that they -- we'd  
16 talk about different things. They'd say, "There  
17 goes another one of those poisonous trucks," you  
18 know. Maybe we joked about it. Maybe we

19 shouldn't have.

20 Q Well, is it fair to say that the  
21 trucks you're describing that were going by, as  
22 you've indicated earlier, you really don't know  
23 what was in them?

24 A I don't know, no.

25 Q So it would be a fair to say --

0118

1 A Could have been floor sweepings for  
2 all I knew, I mean, you know.

3 Q Yeah, right. So -- okay. Fair  
4 enough.

5 I understand that some of the customers  
6 had keys, but if I understood what you said earlier  
7 today before lunch that you could not swear that  
8 Monsanto had a key to the dump?

9 A That's right.

10 Q Right.

11 A You know, it -- they just said --  
12 Cyril was always telling me this stuff, my dad's  
13 partner. And I really didn't care too much about  
14 it when I got older 'cause I had my own business  
15 and things, you know, but he's saying, well -- he  
16 says that Alcine -- that's when he -- that overage  
17 thing came up, and that's how I happened to know  
18 that the companies some of 'em had keys to 'em, you  
19 know --

20 Q Right.

21 A -- that Alcine had given out keys.  
22 But, you know, Alcine was the lessor, I guess, you  
23 know, and he could do what he wanted to with it. I  
24 wasn't going to argue about it. It wasn't my  
25 business.

0119

1 Q Right. Whether or not a customer  
2 was on the overage list didn't necessarily mean  
3 they had a key?

4 A No, it didn't necessarily mean they  
5 had a key, but usually the ones that were on the  
6 overage list had the keys because they -- Kenny  
7 used to count 'em as they came in. His brother  
8 that was in that dump building there when they had  
9 the main entrance there when the dump was going  
10 full blast he'd mark up the trucks that came in  
11 every day, you know. I didn't -- I just happened  
12 to notice it because I was back there, and, like I  
13 said, looking for nuts and bolts and stuff I could  
14 use on the farm. The price was right.

15 Q I think I only have one question.  
16 My client would be upset with me if I didn't ask  
17 this. But again to clarify, and I think you've  
18 already answered it, you don't know what Monsanto  
19 trucks contained?

20 A No.

21 Q And you don't know if there was  
22 anything in there that was floor sweepings or



23 poison is the word you used? That --  
24 A I don't know. I -- you know, I'd  
25 just see the trucks go by the window if I happened  
0120

1 to be looking out. You know, it wasn't the case  
2 that I was sitting there counting 'em or it really  
3 -- you know, they were in charge of that back in  
4 the dump. They were just tenants of the building  
5 back there, the land, you know, and I just -- what  
6 I'd see is all I'm talking about.

7 Q Right, right. And so your choice of  
8 the word "poison" was just a joke --

9 A Yes.

10 Q -- in jest?

11 A Yes.

12 MS. WRIGHT: Thank you. I think that's  
13 all I have.

14 THE WITNESS: Okay.

15 MS. WRIGHT: Thank you.

16 CROSS EXAMINATION

17 BY MR. HARBECK:

18 Q Good afternoon, Mr. Boesch.

19 A Good afternoon.

20 Q My name is Bill Harbeck.

21 A Yes, sir.

22 Q I think we met for the first time in  
23 the elevator on the way up.

24 A That's correct. Yeah, we were both  
25 lost.

0121

1 Q Right. Just one more instruction,  
2 and I'll try not to do this, and if you can try not  
3 to do it also it will make it easier for the  
4 questioning. Let me finish my question before you  
5 start your answer.

6 A Okay.

7 Q And I'll give you the courtesy of  
8 letting you finish your answer before I ask my next  
9 question, just so we don't step on each other.

10 A Okay. Fine.

11 Q I have some questions for you about  
12 some of the customers that you mentioned that were  
13 -- that used the dump site during the time frame  
14 that you were at the site either picking up stuff  
15 on weekends before the 1960s and then also during  
16 the 1960-'66 time frame. One of the customers that  
17 you mentioned was -- you said Hobart was one of the  
18 entities that used the dump from time to time. Do  
19 you remember that?

20 A Yes, sir.

21 Q How do you know that Hobart used the  
22 dump?

23 A They had a green truck, and they --  
24 it was coming down from -- well, they had a place  
25 on Springfield Street. I know they were up in

0122

1 Troy. I know that. But they had a green truck  
2 that had "Hobart" on the side of it.

3 Q Okay. And during what time frame  
4 did you see the Hobart truck?

5 A Oh, it was probably when I was there  
6 the most was from 1960 to about '66, sometime in  
7 that time frame there, those years there.

8 Q Okay. That was the time you saw  
9 them the most?

10 A Yes, sir.

11 Q Would you say during that time frame  
12 they were one of the primary or major users of the  
13 dump amongst -- including amongst the other  
14 companies that you'd already described?

15 A I don't think they were a primary  
16 user, no, sir.

17 Q Okay. How often would you see that  
18 truck?

19 A Oh, I don't know. Maybe once or  
20 twice a week.

21 Q Can you describe the truck a little  
22 bit more? What was the size of the truck?

23 A It was about -- it was about the  
24 size of a good-sized dump truck.

25 Q Did the dump truck have sides and  
0123

1 then a tailgate, that kind of dump truck, or was it  
2 bigger?

3 A Yeah, just a regular dump truck.  
4 Average gravel truck, you know, hauled three and  
5 a-half yards or something like that.

6 Q Okay.

7 A It wasn't a real big truck. It  
8 wasn't one of those big dump trucks with eight  
9 tires on the back or anything, you know.

10 Q But it was a dump truck?

11 A It was a dump truck.

12 Q So bigger than a pickup truck?

13 A Yes, sir.

14 Q Okay.

15 A They had a pickup truck, too, but  
16 they --

17 Q So you'd see a dump truck and a  
18 pickup truck from Hobart?

19 A Yes, sir.

20 Q How did you know it was from Hobart?

21 A It had a -- had lettering on the  
22 side. It was painted dark green with "Hobart" on  
23 the side. I didn't know whether it was Hobart  
24 Brothers or Hobart Foundry. I know they had  
25 several different divisions.

0124

1 Q Okay.

2 A But I think it came from out on  
3 Springfield Street, but I wouldn't swear to it.

4 Q Okay. And this is a truck that you

5 would see pass through the access road when you  
6 were sitting in your office?

7 A Once in a while, yes, sir.

8 Q Okay. Did you ever go back in the  
9 site and see a Hobart truck back into the dump site  
10 area?

11 A No, sir.

12 Q Okay. Did you ever see what was in  
13 either of the Hobart trucks, either the dump truck  
14 or the pickup truck?

15 A No, sir.

16 Q Okay. What kind of waste material  
17 did you understand that Hobart was bringing into  
18 the dump site?

19 A I didn't know.

20 Q Did you have any idea?

21 A No.

22 Q Did you ever go back into the site  
23 after the Hobart trucks had just been there to see  
24 if there was any new waste material?

25 A No, sir.

0125

1 Q Do you know whether or not Hobart  
2 brought any foundry cores?

3 A I don't know about that.

4 Q Okay. Did anybody ever tell you  
5 what they understood Hobart was bringing into the  
6 dump?

7 A No, sir.

8 Q Did you ever see the Hobart trucks  
9 on occasion when you were there doing some scrap  
10 picking up during the -- you know, prior to 1960 on  
11 the weekends?

12 A No, I never saw those because  
13 Saturday most of 'em were not working when we'd go  
14 over and pick scrap, my brother and I.

15 Q Okay. Anything else you can tell me  
16 about the Hobart use of the dump site during the  
17 time frame you were there?

18 A No. I would imagine -- of course, I  
19 know that they used another dump site, too, but it  
20 wasn't just South Dayton. I think -- I think South  
21 Dayton was their backup dump site. That's just a  
22 supposition.

23 Q Okay. Where do you get that  
24 supposition from?

25 A Well, Powell Road's a lot closer to

0126

1 Troy than South Dayton was, and there wasn't 75  
2 down through there.

3 Q All right. But that's just an  
4 assumption on your part?

5 A That's just an assumption on my  
6 part, yeah.

7 Q Where were the Hobart facilities  
8 that you just described? I think you said there

9 were -- were there two of 'em?

10 A Well, there was one on Springfield  
11 Street.

12 Q How far away from that -- from the  
13 South Dayton dump was that facility?

14 A Well, that's probably about six  
15 miles out there, five miles out. Springfield goes  
16 out towards Wright-Patterson there.

17 Q Is that -- just give me a direction.  
18 Is it east, west, north, south?

19 A It's east. They were on the east  
20 side.

21 Q And what type of facility was that?

22 A It was the design, and there was  
23 some manufacturing there, I understand, on a light  
24 scale.

25 Q Okay. Do you know what they made?  
0127

1 A Scales. Hobart made -- I don't know  
2 what all they made. I don't know what they made  
3 out there. I think it was mostly their design out  
4 there. They'd scrap whatever they designed, you  
5 know.

6 Q When you said "scales," are you  
7 talking about scales that weigh things?

8 A Weight scales and stuff like that.  
9 Yeah, they did all -- Hobart had a lot of different  
10 manufacturing products. Yeah, Hobart did meat  
11 scales. I know, God, you can see Hobart on some of  
12 the meat scales around, things like that at the  
13 grocery stores and things, you know.

14 Q So is it in a metal -- manufacturing  
15 pieces -- pieces of equipment, are materials made  
16 of metal?

17 A Yeah. Some of 'em were made of  
18 metal, yes, sir.

19 Q Do you know what else they made?

20 A No.

21 Q Okay. So there's this facility on  
22 Springfield, and that was the -- you think  
23 primarily designed for some manufacturing of metal  
24 parts?

25 A Well, design and they'd just  
0128

1 manufacture what they were designing. I don't  
2 think they were a major manufacturing. I had a  
3 cousin that was on the drawing board out there. He  
4 did design work for 'em.

5 Q Okay. And then the other Hobart  
6 facility, where was that located?

7 A Well, they were up in Troy. Troy  
8 was actually the home of Hobart and Hobart  
9 Brothers. It was two divisions up there. I know  
10 that.

11 Q And where is Troy with respect to  
12 the South Dayton Dump?

13 A Troy -- Troy is up Interstate 75.  
14 Would be about probably 20 miles north of the South  
15 Dayton dump.

16 Q Okay. These trucks from Hobart  
17 would enter from what is now Dryden Road?

18 A Yes, sir.

19 Q And they'd come right by your  
20 office?

21 A Yes, sir.

22 Q But you don't know if they were  
23 coming either from the north or from the south?

24 A I couldn't tell which way -- where  
25 they were coming from, no. I just --

0129

1 Q Okay. Do you know what they made up  
2 in the Troy facility?

3 A No, I don't. They were into heavy  
4 manufacturing of some kind, but I don't know what  
5 it was.

6 Q Did you know any of the Hobart  
7 drivers?

8 A No.

9 Q Another entity that you mentioned  
10 that was a frequent visitor of the dump was NCR?

11 A Yes, sir.

12 Q And I think you described the NCR  
13 trucks. Can you just tell me that again? What --  
14 how did you know that NCR was using the site?

15 A Well, they came from their foundry  
16 over there, which was beyond the swimming pool,  
17 which is next to the Dayton Daily News building now  
18 on South Main Street. It was tore down, and they  
19 come right over along East River Road there by the  
20 Carillon, come around that way and down. Yeah, I  
21 used to see 'em -- I used to go home that way, see.

22 Q Okay.

23 A See, that's where the interstate is,  
24 and I used to go home that way.

25 Q This foundry is that different or is  
0130

1 that part of the NCR complex?

2 A NCR had their own foundry. It was  
3 part of their complex. It was located on South  
4 Main Street. And after they did away with that  
5 foundry, they had their garage in there where all  
6 their executive cars and things were. That  
7 building's tore down now.

8 Q Okay. How far away from the South  
9 Dayton dump site was this foundry that you're  
10 describing?

11 A About a-half a mile.

12 Q Okay. And just so I'm clear, I'm  
13 aware where sort of the NCR complex is we'll call  
14 it. Was it part of that property?

15 A Yes, yes.

16 Q Oh, okay.

17 A Oh, yeah. Right on South Main  
18 Street there. The building that Cox Media has  
19 right now, it was immediately to the north of the  
20 foundry building. The foundry was a one-story  
21 building.

22 Q Okay. Can you describe for me the  
23 NCR trucks that you saw?

24 A Yeah, they had sort of a  
25 cream-colored truck.

0131

1 Q And how did you know they were NCR  
2 trucks?

3 A Well, I went to UD, and I walked  
4 past 'em every day. They had that whole complex  
5 from Brown Street to Main Street and almost all the  
6 way over to Patterson Boulevard or Dixie Highway,  
7 and then from Stewart Street south almost to, oh,  
8 Plumwood down there. I used to go by it all the  
9 time.

10 Q Okay. Did they have any markings or  
11 logos on their side, the NCR trucks?

12 A Yeah, they had "NCR" on the side.

13 Q Okay. How frequently would you see  
14 them coming into the site during the 1960 to '66  
15 time frame?

16 A Oh, once or twice a week.

17 Q What sort of materials did NCR bring  
18 to the dump site to your knowledge?

19 A Well, I know they brought foundry  
20 cores over there.

21 Q How do you know that?

22 A Huh?

23 Q How do you know that?

24 A 'Cause I'd see them bring that truck  
25 that had -- the foundry cores were usually carried

0132

1 by a truck that had a dump that would come down --  
2 it had arms on the back of it. It wasn't a  
3 standard dump truck. It was a cab of a truck, and  
4 it had a body on the back. And it had mounted on  
5 the back -- it had a short body. It was a short  
6 stub body, and it had these like dumpsters, and  
7 they'd dump 'em, but they'd swing, you know. And  
8 they'd lower 'em down and swing, and that foundry  
9 core would fall out. They'd pick 'em up in the  
10 foundry. They could go in the foundry, pick 'em up  
11 and put 'em in these dumpsters -- dump trucks, and  
12 they weren't standard dump trucks. They were those  
13 floating kind that would tip, and they'd bring 'em  
14 over and they'd dump 'em. They were hot. You  
15 know, sometimes they were hot.

16 Q The foundry core sometimes were hot?

17 A Yeah. If you want to find the  
18 residue of foundry cores, go up on Schantz Avenue  
19 there at Pointe Oakwood and you can see some of  
20 'em. They used to dump 'em up there till they got

21 so they got afraid to dump 'em on their own ground.

22 Q If I have a little extra time after

23 the deposition maybe I'll take a little tour.

24 A Yeah, look up there. You know,

25 those guys say, "Look at that great black dirt."

0133

1 You know, that's foundry sand. I hate to tell you.

2 Q Okay. I think you described the

3 cores themselves as --

4 A Yeah.

5 Q -- being dark red, brown or black?

6 A And black, yeah, yeah.

7 Q Okay.

8 A I never saw a light one, though, you

9 know.

10 Q Okay. Did NCR bring any other types

11 of materials besides foundry cores?

12 A Well, they'd bring some scrap

13 shavings in there, I think, like -- like Frigidaire

14 did. You know, they worked with metal in the

15 manufacturing of their cases for their machines,

16 and there'd always be a little shavings that, you

17 know, they'd cut off, and they'd bring some of

18 those over.

19 Q Would those be brought over in the

20 dump trucks?

21 A No, they'd be -- they'd usually be

22 in a container, and they wouldn't dump 'em on the

23 dump too much. They'd probably sell 'em for scrap,

24 but NCR just didn't want to work with 'em, I guess.

25 Q Okay. But you saw those containers

0134

1 carrying scrap shavings come into the dump site?

2 A Yeah. They used to keep them up --

3 up in the front part of that warehouse where --

4 where other stuff was kept.

5 Q Did you ever see any of these scrap

6 shavings or were these -- let me ask you this.

7 Were some of these scrap-related

8 shavings, the metallic shavings things that

9 sometimes you would -- you would pick up when you

10 went through the dump?

11 A No, they weren't worth our time. I

12 mean, they were the fine shavings, you know. All

13 you'd do is get bloody fingers picking 'em up.

14 Q Were the scrap shavings did they

15 have any oils or greases that came off --

16 A They usually had a little oil on

17 'em. They were liquid. They weren't really dry.

18 Once in -- it's according to how long they sat

19 before they brought 'em over, too, you know, when

20 the evaporation would get to 'em.

21 Q Okay. And you'd see these --

22 describe these containers. What kind of containers

23 were these?

24 A They were those cardboard

25 containers. Sit about -- like a 50-gallon drum,  
0135

1 only it was cardboard. They wouldn't use a drum.

2 Q Would these be cardboard sides and  
3 then a metallic top, or would they be all cardboard  
4 or --

5 A Yeah, they'd be cardboard, but they  
6 had a rim at the top and the bottom. They had a  
7 metal rim around 'em to hold 'em together, and the  
8 top had a metal rim around it, too.

9 Q Okay. And you said you saw -- one  
10 place where these drums were staged was in -- in  
11 the building?

12 A In the dump building, yeah.

13 Q In the dump building?

14 A Yeah. When they were operating at  
15 full force, yeah. Kenny'd save 'em till he got  
16 enough of 'em. They weighed 'em. They sold 'em by  
17 the pound. They sold the shavings by the pound.

18 Q The dump building just so we're --  
19 got this in terms of the location, which number is  
20 that?

21 A That's -- that's that odd-looking  
22 number. What is that? 14?

23 Q Point to it.

24 A Right there. I can't -- can't read  
25 my own writing.

0136

1 Q 13?

2 A Is it 13? No, that's -- yeah, is  
3 that 13? That's 13. Yeah, there was the dump  
4 building right there.

5 Q Okay. 13 is the dump building?

6 A Yes.

7 Q Okay.

8 A That's where they used to pull into.

9 Q Okay. Do you know personally  
10 whether or not those shavings were sold?

11 A Do I know personally?

12 Q Yes.

13 A Yes, they were sold. Some of 'em  
14 were sold.

15 Q How do you know that?

16 A Because Kenny, who ran the front end  
17 -- one of the Grillot brothers who ran the front  
18 end of the dump there, he would call Patterson Iron  
19 and Metal. They'd pick 'em up. They were down  
20 here on -- on Fifth Street and Patterson Boulevard.  
21 They'd come down and pick 'em up. They weighed 'em  
22 by the ton -- I mean by the pound is how they sold  
23 'em.

24 Q Do you know whether or not any of  
25 those shavings were ever disposed of at the dump

0137

1 site?

2 A I don't know.



3 Q Okay. Do you know what happened to  
4 any of the liquids that might have been in those  
5 containers with respect to whether or not those  
6 were sold or whether those were dumped at the  
7 landfill?

8 A I don't know.

9 Q Okay. And I think in your prior  
10 deposition you testified that you sometimes saw the  
11 NCR trucks come in before 1960?

12 A Yes.

13 Q Okay. So would you have seen them  
14 during the late 1940s and also sometimes during the  
15 1950s?

16 A Yes, uh-huh.

17 Q Okay. Do you know whether or not  
18 any of those -- well, let me ask you this. Did you  
19 see them on occasion after 1966 when you -- yeah, I  
20 know you left your office there permanently.

21 A No, no, I didn't -- I -- really  
22 after I left in '66 I didn't pay a lot of attention  
23 to what went on back there. They moved the  
24 entrance further south, and because in '55 they --  
25 they'd pretty much solid fill, and then the bank  
0138

1 moved south. As they filled up that bank, you  
2 know, with solid fill the bank moved south. And it  
3 moved behind those buildings, behind the dump  
4 buildings, and that's when they opened up that  
5 second entrance there right where 18 is there. You  
6 can go down there and see there's still an entrance  
7 there today and a gate back there. It's overgrown  
8 with trees and weeds and junk, but --

9 Q Okay. I know you said after you  
10 left the -- you moved your office in 1967, '66, you  
11 occasionally visited --

12 A My father.

13 Q -- your dad at the office --

14 A Yeah.

15 Q -- up until 1979 when he died?

16 A That's correct.

17 Q During that period of time, did you  
18 ever see any NCR trucks come in from time to time?

19 A I never noticed 'em because, see,  
20 they moved the entrance further south.

21 Q Okay. What year was that that you  
22 think they moved the entrance?

23 A I think they moved that entrance  
24 about 1968 further south.

25 Q Okay. So you don't know whether or  
0139

1 not NCR continued to use the dump site after they  
2 moved the access road; is that right?

3 A I don't know.

4 Q Okay.

5 A I don't know. After I left -- after  
6 '66 and -- '68 just when I'd occasionally go over

7 there to get parts or something or look for nuts  
8 and bolts and stuff.

9 Q Okay. One other entity that you  
10 mentioned was Walther Foundry?

11 A Yes, sir.

12 Q Is that the same as Dayton Steel?

13 A Yes, Dayton-Walther.

14 Q Okay. Where was that facility  
15 located?

16 A Well, they had a facility on Dryden  
17 Road where they made railroad wheels, and then they  
18 were up on a continuation of Dryden Road which was  
19 known as it went into the City of Dayton as South  
20 Broadway. It was about six blocks north of the  
21 river on the west side of South Broadway back  
22 there.

23 Q Okay. So there's two facilities  
24 you're talking about?

25 A Yes, sir.

0140

1 Q So the first one on Dryden Road, how  
2 far away was that from the dump site?

3 A That -- that was approximately six  
4 blocks from the dump site.

5 Q Okay. And where was the other  
6 facility? About how far?

7 A About ten blocks. One was north of  
8 it, and one was south of it.

9 Q And the one that was on Dryden Road  
10 was six blocks south?

11 A Yeah.

12 Q Okay.

13 A No, no. That's north. I'm sorry.

14 Q That's north? I'm sorry.

15 A That's north. South Broadway --  
16 see, I'll tell you. I'm not used to the Dryden  
17 Road name of that road, to be honest you. It was  
18 South Broadway when we first went down there. Then  
19 they changed it to Springboro Pike when Moraine  
20 became a township on their own.

21 Q Okay. So the first one that made  
22 the railroad wheels that you said was six blocks  
23 away, that was six blocks south?

24 A Yeah, that was six blocks south, and  
25 it was on Old Dryden Road. Now they call that

0141

1 Northlawn now.

2 Q Okay.

3 A See, Old Dryden Road used to cross  
4 Springboro and come up along where the interstate  
5 is and come along the Carillon Park, you know. And  
6 then East River Road would come in there just under  
7 the I-75, you know. Well, then they changed Old  
8 Dryden Road they changed to Northlawn which comes  
9 across and then cuts north and goes northeast and  
10 comes out -- on up and hits East River Road which

11 goes past Carillon Park and comes over to Patterson  
12 Boulevard there, the head -- well, the headquarters  
13 of NCR, the old headquarters of NCR.

14 Q Okay. So this facility that was ten  
15 blocks away, that was ten blocks north?

16 A North.

17 Q Did those facilities have different  
18 names?

19 A Well, Walther had a couple. One was  
20 Dayton-Walther. Kep Bernhardt (sic) ran that. And  
21 one of the Walther boys ran the rail -- the wheels  
22 for the railroad, made railroad wheels for box  
23 cars, you know --

24 Q Right.

25 A -- things.

0142

1 Q Do you know what they made at the  
2 Dayton-Walther facility or Dayton Steel -- what was  
3 its name back then?

4 A It was Dayton-Walther.

5 Q Dayton-Walther. Okay.

6 A Yeah.

7 Q The one that was north, do you know  
8 what they made at that facility?

9 A Yeah, they did some kind of  
10 castings, and that's where the foundry cores came  
11 from. I don't know what type of castings they  
12 made, but --

13 Q Okay. And I understand that you saw  
14 trucks from Dayton-Walther come in during the 1960  
15 to '66 time frame?

16 A That's right. Yes, sir.

17 Q And how do you know they were from  
18 Dayton-Walther?

19 A Well, I had seen 'em come in -- they  
20 used to dump at a place over on West River Road  
21 across the river, and this guy that was dumping  
22 over there built a -- built out into the river, and  
23 the Conservancy got after him, and that's when they  
24 acquired all that land because he was -- he was  
25 detouring the river, you know. So that's when they

0143

1 started dumping with us down there on South Dayton  
2 dump permanently, I mean, you know.

3 Q When did they establish this  
4 Conservancy? What decade was that?

5 A Oh, that was back during the flood,  
6 1913, Miami Conservancy District. They built --

7 Q Okay. I guess what I'm asking you  
8 is when did they -- when did Dayton-Walther stop  
9 using this site across the river and start using  
10 the Dayton dump?

11 A It was about '62.

12 Q Okay.

13 A They used the Dayton dump before  
14 some, but not -- not steady. Then the Conservancy

15 stopped that guy from -- he had a piece of land  
16 there, and they'd go out into the river.

17 Q So from 1962 until 1966 at least  
18 you'd say it was steady use?

19 A Yeah.

20 Q And before that they would use it --  
21 you saw them there on occasion?

22 A Yes, sir.

23 Q And would that on occasion include  
24 both the 1940s -- late 1940s when you were there  
25 and also 1950s?

0144

1 A Probably would, but I -- I didn't  
2 pay a lot of attention to 'em then. I just was in  
3 and out of there.

4 Q I just want to --

5 A Mm-hmm.

6 Q -- make clear. But you did see them  
7 from time to time during the 1940s and the 1950s?

8 A Yeah.

9 Q Okay.

10 A Yes, sir. 'Cause Dayton -- they  
11 used to always eat up at Sacksteder's there right  
12 at the corner of Nicholas Road and South Broadway.

13 Q Can you describe the Dayton-Walther  
14 trucks?

15 A The only thing I saw was their core  
16 trucks, their core foundry trucks.

17 Q What did those trucks look like?

18 A They were -- they were short stub.  
19 They were really nondescript. I think they --  
20 whatever color they came through from the factory,  
21 but they were just -- they were truck beds with  
22 their cabs on 'em, and then they'd put these dump  
23 things on the back of 'em. They were designed just  
24 for foundry cores. Because, you know, they'd pick  
25 up those cores and they'd have that hot molt, and  
0145

1 those cores would still be pretty hot. They'd dump  
2 'em right in those -- the trucks like that.

3 Q Okay. Did these trucks have sides  
4 on them?

5 A I didn't see any sides on 'em.

6 Q Were these flat bed trucks?

7 A No, no. They -- I don't know if  
8 you've ever seen one of those or not. I can't --  
9 they were designed especially to handle foundry  
10 cores, and they were a short bed truck. They'd  
11 have a regular standard truck. Let's just say you  
12 had a standard dump truck.

13 Q Okay.

14 A Had nothing on the bed on back, but  
15 they had a short frame on 'em. Okay. And they had  
16 this -- two arms that came up, and they had this  
17 dump thing that hung in there. It was sort of a  
18 U-shaped type, and they dumped those foundry cores

19 in there. They'd lift 'em in there hot. They'd go  
20 in there. They'd let 'em cool and then they'd take  
21 'em and dump 'em, and they just tipped 'em, and  
22 they'd fall over and go right on down.

23 Q Okay. Could you tell whether or not  
24 there were any other materials in this type of  
25 truck that were coming in?

0146

1 A There was usually in a -- when you  
2 got a foundry core, you only got a foundry core.  
3 They never put anything else in there.

4 Q Okay. Could you see, you know, the  
5 entire surface of the back end of the truck to see  
6 whether or not they might have thrown something  
7 else in there?

8 A There's nothing else they could --  
9 it would have to be -- it swung like a dolly. You  
10 know, I mean, it swung. It had these two big arms  
11 that it swung off of on each side of the truck.  
12 They would go on each side of the bed of the truck,  
13 and they had a lift that lifted up and it would tip  
14 -- then it'd tip itself with the weight, and it  
15 would fall out of there. And they never put  
16 anything else in there. They just put those  
17 foundry cores in there.

18 Q Okay. Did you ever see any other  
19 types of trucks from the Dayton-Walther facility?

20 A Not that I can recollect.

21 Q Okay. After you left that office in  
22 1966, did you on occasion -- when you were out  
23 there visiting your dad or doing some of this scrap  
24 picking, did you see Dayton-Walther trucks at the  
25 dump site?

0147

1 A No, I never really noticed 'em, to  
2 be quite honest with you. They had moved the  
3 entrance, and we were up almost a block north of  
4 the entrance.

5 Q Okay.

6 A See, they moved that entrance south,  
7 and we were almost a block north. I'd just go over  
8 and talk to him, or like I said, I had a couple of  
9 agents that hung out in there, and I'd talk to  
10 them, and that's about it.

11 Q Okay. With respect to the night  
12 dumping, you described both NCR and Dayton-Walther  
13 as showing up and dumping materials after the gate  
14 was locked at 6:00 p.m. Do you recall that?

15 A Yes, sir.

16 Q Did you ever see the Hobart trucks  
17 come in ever after 6:00 p.m. when the gates were  
18 locked? Is that another one that had -- did some  
19 night dumping?

20 A Well, when they -- when they had  
21 foundry cores, they'd come in with a foundry core  
22 sometimes at night. I mean, I usually -- you know,

23 about 8:00 o'clock sometimes is as long as I was  
24 there if I had to go back or forgot something or  
25 meet somebody.

0148

1 Q Okay. With respect to the drivers,  
2 I think in your prior deposition in 2006 you said  
3 you knew one of the NCR drivers?

4 A I knew one of the NCR yard people.  
5 I don't know whether he drove truck or not. He  
6 lived down in Bellbrook. I was on the Zoning Board  
7 and Chairman for about 15 years, and he used attend  
8 every meeting, and he had a question at every  
9 meeting. If we were changing an outhouse he had a  
10 question. So anyway -- but he worked in the yard  
11 over at DP&L. I knew another one --

12 Q I'm talking about NCR, not DP&L.

13 A Oh.

14 Q NCR I think you testified earlier in  
15 your prior deposition --

16 A Yes, yes.

17 Q -- you knew one of the NCR drivers.

18 A Yeah, he was one of the chauffeurs  
19 for NCR. John Kelly, yes.

20 Q Okay. How did you know him?

21 A I tended bar with him at Kramer's at  
22 night.

23 Q Okay. So the yard person you were  
24 just talking about was a DP&L yard person?

25 A Yeah, yeah. I'm sorry. I got a

0149

1 little confused there.

2 Q Okay.

3 A I changed companies.

4 Q And with John Kelly you tended bar  
5 with him when you were in college?

6 A Yes, sir.

7 Q This was during the 1950 to '54 time  
8 frame?

9 A Right, yeah.

10 Q And then after that time frame was  
11 he one of the drivers that occasionally would come  
12 into the dump site driving waste materials from  
13 NCR?

14 A No, no, John -- John wouldn't drive,  
15 but he knew 'em all. He was -- he was a sedan  
16 driver. He drove Walter (sic) Oelmar around, the  
17 President of NCR.

18 Q Okay. But he wasn't one that was  
19 driving --

20 A Driving, but he was -- see, they  
21 took over the -- the Executive Automobile took over  
22 the old foundry building, and John knew a lot of  
23 those guys.

24 Q Did you -- did you know by name or  
25 acquaintance any of the NCR drivers that came into

0150

1 the site?

2 A No, I didn't.

3 Q How about the Hobart drivers?

4 A No.

5 Q How about the Dayton-Walther

6 drivers?

7 A No.

8 Q Okay. I think you alluded to in  
9 this deposition, but I'm not sure about this, but a  
10 place where DP&L would dispose of its fly ash on  
11 its own property which was across the street. Did  
12 you talk about that today?

13 A Well, actually the property where  
14 they disposed of fly ash was the old, oh, Eby  
15 brothers gravel pit down on East River Road, which  
16 was bought by Moraine Ready Mix, which used to be  
17 Central Ready Mix, and they used the gravel pit for  
18 their ready mix operations. And then when they  
19 moved and figured the gravel come out, some fellows  
20 bought the ground and dumped fly ash down there.  
21 And I think DP&L -- it was DP&L's fly ash. They  
22 were hauling it from the pit in back of DP&L's  
23 building down East River Road to that part which  
24 was down below Northlawn. Now, that's where all  
25 the -- then they built buildings on top of it after  
0151

1 they filled it up, and they built some -- there's  
2 some industrial buildings down there, and  
3 Miller-Valentine built those buildings down there.

4 Q So the Eby Brothers gravel pit  
5 that's some distance away from the South Dayton  
6 dump or is that --

7 A Oh, it's on down -- South Dayton  
8 dump was closed when the Ebys started dumping the  
9 fly ash down there.

10 Q Okay. I'm now talking about a  
11 description that you were providing with respect to  
12 the DP&L facility which was across the street from  
13 where your office was at the South Dayton dump.

14 A Right, right.

15 Q And in that prior deposition you  
16 were describing -- what you were describing was a  
17 fly ash dumping site on the DP&L property itself.

18 A Yeah.

19 Q Do you remember that?

20 A Yes.

21 Q Can you tell me where that -- where  
22 that -- the general vicinity of that DP&L fly ash  
23 dump site was on its own property?

24 A It was off the map. It was back  
25 along the East River Road here. This is East River  
0152

1 Road coming up --

2 Q East River Road's number 2.

3 A Number 2 there.

4 Q Okay.

5 A East River comes up and goes on  
6 around DP&L's generating -- electric generators  
7 they got now or whatever they are down there now.

8 Q Okay.

9 A But there was a big pond back there  
10 full of fly ash.

11 Q Okay. If -- if we're looking -- I  
12 have to be careful here -- at this Exhibit 1, can  
13 you tell me -- I mean, I know it's off the aerial  
14 photo, but about how far north is it?

15 A It's not north. It's most -- it's  
16 northwest. But see how this road runs? It runs  
17 parallel. It's back up in here --

18 Q Okay.

19 A -- is where it was.

20 Q I tell you what. If you could do  
21 this. If you could just draw an arrow and put  
22 number -- what number are we up to?

23 MR. CYPHERT: 23.

24 MR. HARBECK: 23?

25 MR. CYPHERT: 23.

0153

1 BY MR. HARBECK (Continuing):

2 Q Just put an arrow and 23 to reflect  
3 where -- where that location was, and make it --  
4 you can put the arrow going off the map if you  
5 want. Okay.

6 A (So complies.)

7 Q Okay.

8 A Yeah. It was back in there because  
9 Cyril always used to talk with Stuart, who was  
10 President of NCR at the time, I think, about  
11 putting a pipe under Dryden Road and piping it over  
12 into the South Dayton dump because theirs was  
13 getting filled up.

14 Q Okay. And that's what I was  
15 remembering with respect to what you're talking  
16 about today.

17 A Right.

18 Q Do you have any idea how long DP&L  
19 was using that -- I'll say its own dump site for  
20 fly ash? Do you have any understanding of how long  
21 that went on there?

22 A No, I couldn't tell you exactly. It  
23 was -- it was probably -- I know it was into the  
24 late fifties and probably into the early sixties,  
25 and then they some way got connected with Ebys' pit

0154

1 down there on East River Road, the Eby Brothers.

2 Q Do you know whether or not it was  
3 used even into the 1970s? Do you know one way or  
4 the other?

5 A I don't know. I really don't know  
6 how long they used their own pit back there, but I  
7 know they were talking about running out in the  
8 late fifties and early sixties.



9 Q Do you know whether or not it was  
10 used in the 1980s? Do you have any personal  
11 knowledge?

12 A No.

13 Q Okay. So it could have been used in  
14 the seventies and eighties, but you just don't  
15 know?

16 A Well, whenever they stopped using  
17 coal there to generate with. See, there was no fly  
18 ash with the electric generators that they've got  
19 there now.

20 THE VIDEOGRAPHER: Excuse me, sir. I  
21 have five minutes left on this tape.

22 MR. HARBECK: Okay. Does it make sense  
23 -- I might have a little more than five minutes.  
24 Do you want to stop now or do you want to --

25 THE VIDEOGRAPHER: Yeah, let's go off the  
0155

1 record. We are now off the record. The time is  
2 2:17.

3 (Whereupon, a recess was taken.)

4 THE VIDEOGRAPHER: We're now back on the  
5 record. The time is 2:30.

6 BY MR. HARBECK (Continuing):

7 Q Mr. Boesch, I want to go back just  
8 for a second to John Kelly.

9 A Yes, sir.

10 Q He's the NCR driver that you talked  
11 a little bit about.

12 A Yes, sir.

13 Q In your 2006 deposition you  
14 described him actually as a truck driver, and what  
15 you described in that deposition was you knew him  
16 from bartending --

17 A Yes.

18 Q -- as you testified to here. And  
19 you said you'd be sitting in your office, and he'd  
20 come by when he was driving the truck and say hi  
21 and ask to get a cup of coffee.

22 A Mm-hmm, mm-hmm.

23 Q Do you remember that?

24 A Yes. Yes, I do. Yeah.

25 Q So is it accurate to say that from  
0156

1 time to time he did drive one of these trucks that  
2 was dumping materials?

3 A Yes, yes, he would. Then when they  
4 cut out most of 'em, you know, he got a job driving  
5 a limousine. John used to -- we used to tend bar.  
6 Of course, you know, 1:00 o'clock we closed, and  
7 we'd always sit and have one on the house after we  
8 closed. And then John would tell me these stories,  
9 you know. And I knew he did drive, and he did --  
10 one time he did stop in the office there, but I  
11 don't know what he was hauling or anything like  
12 that.

13 Q Right, right. Well, according to  
14 your prior deposition, he would stop in from time  
15 to time when he was driving trucks.  
16 A Yeah.  
17 Q Is that accurate?  
18 A Yes, sir.  
19 Q Okay. And in that prior deposition  
20 you described NCR as a fairly long-term customer.  
21 Does that fairly characterize their use of the  
22 site?  
23 A Yes, sir.  
24 Q Can you tell me who currently owns  
25 the South Dayton dump site?

0157

1 A Yes.  
2 Q Who owns it?  
3 A Kathryn Boesch. She owns  
4 seven-sixteenths. And Margaret Grillot who owns  
5 nine-sixteenths.  
6 Q Kathryn Boesch is what relationship  
7 to you?  
8 A She's my stepmother.  
9 Q She's the one who's 93 years old --  
10 99 years old?  
11 A Ninety-nine years old, yeah.  
12 Q Okay. And Margaret Grillot, what is  
13 her relationship to Cyril?  
14 A Wife. Widow. Widow.  
15 Q Okay. How old is she?  
16 A She's 89.  
17 Q So she's just a youngster?  
18 A Yeah, yeah. I'm the youngster, 79.  
19 Q Do they both still live in the  
20 Dayton area?  
21 A Yes.  
22 Q Okay. And do you know how much of  
23 this property that we're looking at that's shown on  
24 Exhibit 1 how much of that they own?  
25 A Yes. They own -- well, everything

0158

1 that's outlined in red here they own.  
2 Q Okay.  
3 A Except this one with -- parcel here  
4 in orange belongs to Margaret herself, and the rest  
5 of this belongs to the partnership, which Kathryn  
6 has seven-sixteenths and Margaret has  
7 nine-sixteenths.  
8 Q Okay. And when you're talking about  
9 everything that's outlined in red, you're talking  
10 about -- let me finish this so it's clear on record  
11 -- this red border that kind of starts along Dryden  
12 Road and then circles around kind of around the  
13 river and then cuts across below what looks to be a  
14 pond or a lake?  
15 A Yeah, pretty much, except in here  
16 this part is the Miami Conservancy District, this

17 south part of the lake.

18 Q That little kind of --

19 A Wedge-shaped property here.

20 Q At the very bottom southwest side?

21 A Southwest side, uh-huh.

22 Q Okay. Is that the Conservancy

23 District that you were talking about earlier where

24 people used to dump stuff?

25 A Yes, sir. Miami Conservancy

0159

1 District. They never dumped back in there. That

2 was a gravel pit.

3 Q Okay.

4 A And when that gravel pit filled up

5 with water, they never dumped in there.

6 (Whereupon, the deposition was briefly

7 interrupted.)

8 A Where did you lose me at or where

9 did I lose you at?

10 Q Miami Conservancy District.

11 A The Miami Conservancy District was

12 --

13 Q Is that wedge-shape down --

14 A Is that wedge-shaped, yeah. How

15 that got --

16 Q Point out the wedge-shape again just

17 so we can see it on the record. It's this

18 southwest corner of the site; right?

19 A Yeah, right. Yes, it is. There was

20 never anything dumped down in this area.

21 Q Okay. That was -- as far as you

22 understand, that was all just a gravel pit

23 operation?

24 A Gravel pit and filled up with water,

25 yes.

0160

1 Q Okay. Can you tell me what you did

2 to prepare for your deposition today?

3 A Nothing.

4 Q Did you meet with your counsel? I

5 don't want to know what you talked about. I just

6 want to know if you met with your counsel.

7 A He called me on the phone.

8 Q Okay. Did you meet with Mr.

9 Cyphert?

10 A No.

11 Q Did you meet with anyone that works

12 with Mr. Cyphert like Leslie Wolfe over here?

13 A No.

14 Q Okay. Have you ever sat down and

15 talked about your experience or knowledge regarding

16 the South Dayton dump with either Mr. Cyphert or

17 Leslie Wolfe or anyone that is representing the

18 Plaintiffs in this matter?

19 A Just recently?

20 Q Ever.

21 A One time, yes.

22 Q When did you do that and who did you  
23 meet with?

24 A I met with Mr. Cyphert one time with  
25 Mr. Hoffman, Tim. And that was about five years  
0161

1 ago, four years ago, three years ago, something  
2 like that I think it was.

3 Q Okay. And what did you talk about  
4 during that meeting?

5 A We talked in general about the  
6 deposition I had given in 2005 when the EPA was  
7 down here from Chicago, and we went over some of  
8 the facts that I talked to 'em about.

9 Q Okay. So it was -- this meeting was  
10 after that deposition?

11 A Yeah, it was two years after. I  
12 think -- I think it was about three years ago or  
13 two years ago that we met with Mr. Cyphert.

14 Q Okay. Do you recall anything else  
15 you talked about?

16 A No.

17 Q Did the names of any other companies  
18 that might have used the dump site come up during  
19 that conversation to your recollection?

20 A No. Pretty much the names that have  
21 been mentioned today.

22 Q Okay. Have you had any meetings or  
23 discussions with anyone from the United States  
24 Environmental Protection Agency about the South  
25 Dayton dump operations?  
0162

1 A Except that one in 2005.

2 Q You're talking about that  
3 deposition?

4 A Deposition, yeah, when I gave that  
5 deposition there, yes, sir.

6 Q Okay. And is that the only -- as  
7 far as you can remember, is that the only  
8 discussion or conversation or deposition that  
9 you've -- let me just put it this way. Is that the  
10 only time you've talked with the EPA about this  
11 site?

12 A Yes.

13 Q Okay. Is there any arrangement  
14 between you or any of your relatives, including  
15 your mother and the United States EPA, about  
16 potential liability concerning the South Dayton  
17 dump site?

18 A Not to my knowledge. They've had  
19 some conversations. Jim Kiefer, who's dead, was  
20 their lawyer for a long time, and then Tim and Jim  
21 Mitchell have represented 'em. And the only thing  
22 that I've ever said over the years is -- my  
23 stepmother did say to me about ten years ago --  
24 this things's been going on for 17 years or

25 something like that. Jesus. She did say to me  
0163

1 that -- she said, "We wanted to be sure that there  
2 was no liability on future generations." That's  
3 what -- that's the only thing we ever talked about.

4 Q Okay. And the lawyers you were just  
5 describing, were they lawyers representing your  
6 mother -- your stepmother?

7 A Stepmother, yeah. Jim Kiefer was --  
8 was a friend of Cyril Grillot's, and he was an  
9 attorney, and his partner was Jim Mitchell, and  
10 they represented my stepmother, yes, and Margaret,  
11 yes.

12 Q Okay. As you sit here today, do you  
13 know whether or not there's any arrangement or  
14 agreement that would protect your stepmother,  
15 Margaret Grillot or any potential heirs from any  
16 potential liability in connection with the South  
17 Dayton dump site?

18 A Well, not to my knowledge, no. I  
19 just know that she said to me that they think  
20 they've got it settled where the heirs would not be  
21 liable.

22 Q Okay.

23 A That's all I know.

24 Q Okay. Do you know if there's any  
25 ongoing discussions about this?

0164

1 A No. Except my sister.

2 Q What discussions regarding your  
3 sister?

4 A She says, "I want to get out of this  
5 mess." She says, "I don't want to inherit  
6 something."

7 Q And I understand you got out of this  
8 mess back in around 1980; is that right?

9 A Yeah.

10 Q And how did you get out of this  
11 mess?

12 A I sold my interest to Cyril. He  
13 wanted control, so I gave it to him.

14 Q Okay.

15 A That's how they got the other  
16 two-sixteenths.

17 Q Or the other one-sixteenth?

18 A The one-sixteenth. I mean the  
19 one-sixteenth, yeah.

20 Q Okay.

21 A My sisters and my brother when he  
22 was alive they sold to my stepmother, and I didn't.

23 Q So around 1979 when your father died  
24 did you inherit one-sixteenth of the interest in  
25 the South Dayton dump?

0165

1 A Yes, I did.

2 Q And then you sold that to Cyril?

3 A Cyril Grillot, yes, in about '71.  
 4 Q '71 or '81?  
 5 A '81. I'm sorry. '81, yeah.  
 6 Q Okay.  
 7 A I think it was '81.  
 8 Q And then --  
 9 A '80 or '81.  
 10 Q Cyril, who then had nine-sixteenths,  
 11 he --  
 12 A Yeah, he had -- he had the  
 13 controlling interest.  
 14 Q And he gave that to Margaret?  
 15 A Right.  
 16 Q Okay.  
 17 A She inherited. Well, he left some  
 18 to his children -- or something to his children,  
 19 but anyway she bought 'em out or whatever. I don't  
 20 think he left any of this to her, but --  
 21 Q Okay.  
 22 A -- I don't know how his will read.  
 23 Q Are you being compensated for your  
 24 time here today?  
 25 A No, sir.  
 0166  
 1 Q Have you ever been compensated in  
 2 connection with any of your meetings or discussions  
 3 or any activity in connection with South Dayton  
 4 dump site regarding who dumped there and when and,  
 5 you know, the stuff we're doing today?  
 6 A No, sir.  
 7 MR. HARBECK: Okay. Thank you very much  
 8 for your time.  
 9 THE WITNESS: Okay. You're welcome.  
 10 MR. CYPHERT: This is Mike Cyphert,  
 11 counsel for the Plaintiff. Are there -- are there  
 12 any questions from any of the people who are on the  
 13 phone conference?  
 14 MR. STRANG: It's Carter Strang. I have  
 15 a few.  
 16 MR. CYPHERT: Okay. You have the floor  
 17 in just a moment. We need to adjust the  
 18 microphones.  
 19 MR. STRANG: Sure.  
 20 THE VIDEOGRAPHER: Whenever you're ready.  
 21 CROSS EXAMINATION  
 22 BY MR. STRANG:  
 23 Q All right. Can you hear me, sir?  
 24 A Yes.  
 25 Q Great. Let me know if you can't.  
 0167  
 1 That's fine. The same instructions are in place.  
 2 You've been very good about not talking over my --  
 3 over other people's questions. Again, feel free to  
 4 take a break if you need to. And if there's  
 5 anything about my questions -- and I don't have  
 6 many -- but if there's anything about any of the

7 questions that you find confusing, just stop me  
 8 right then, and we'll clear it up, and we'll make  
 9 sure you understand the question. Fair enough?

10 A Yes, sir.

11 Q All right. I represent Valley  
 12 Asphalt, which is one of the defendants in this  
 13 case, and you've made some reference to Valley  
 14 Asphalt. You said earlier that you were seldom in  
 15 the area of Valley Asphalt when it was operating  
 16 out at the area that's on that one map, Exhibit 1;  
 17 correct?

18 A Yes, that's correct.

19 Q Okay. And you said that the only  
 20 materials that you associated with Valley Asphalt  
 21 were materials that were actually at its facility,  
 22 and you said in the 1980s you recalled there being  
 23 some old asphalt that was piled up out there;  
 24 correct?

25 A Yes. Yes, sir.

0168

1 Q And did I hear right -- I had a  
 2 little trouble with the phone connection. Did you  
 3 say you recalled a gravel pit in the 1950s at that  
 4 site as well at that facility?

5 A No, there was no gravel pit in that  
 6 facility.

7 Q Okay. So the only materials -- and  
 8 by the word "materials," I include anything that's  
 9 liquid or solid. But the only materials you  
 10 associate with any activities by Valley Asphalt  
 11 would be that old asphalt that you saw piled at its  
 12 facility; is that correct?

13 A The reclaimed asphalt that's piled  
 14 up --

15 Q Yes.

16 A -- the mountain there, yes.

17 Q Yes, okay.

18 There's a claim in this case that Valley  
 19 Asphalt contributed to contamination at the South  
 20 Dayton landfill and dump. Sir, is it fair to say  
 21 that you don't have any information that would  
 22 pertain to that claim?

23 A I know nothing about Valley  
 24 Asphalt's using the dump.

25 Q Okay. And you don't have any

0169

1 information in regard to any activities of Valley  
 2 Asphalt at its facility that may relate to  
 3 contamination of the dump; is that correct?

4 A Well, I don't know of any unless the  
 5 asphalt pile drains off onto the ground. I don't  
 6 know what else it would be, that mountain there.  
 7 It's a big --

8 Q That's all I want to know, sir.

9 A Okay.

10 Q That's the only thing that you've

11 talked about so far, and that's the only thing you  
12 know about; is that correct --  
13 A That's correct.  
14 Q -- is that pile?  
15 A That's correct.  
16 MR. STRANG: Thank you.  
17 THE WITNESS: Okay.  
18 MR. CYPHERT: Are there any other  
19 questions from counsel that are on the phone  
20 conference?  
21 MR. ERZEN: This is Mark Erzen. I have  
22 no questions on behalf of Cargill. Thank you.  
23 MR. CYPHERT: Anyone else?  
24 MR. MOSS: Just for the record, David  
25 Moss on behalf of Bridgestone, I have no questions.  
0170  
1 MR. CYPHERT: This is Mike Cyphert again,  
2 and I've just got a few questions that I would like  
3 to clarify on some of the questions that were  
4 raised by the other counsel.  
5 RECROSS EXAMINATION  
6 BY MR. CYPHERT:  
7 Q I believe in response to a question  
8 that was proposed to you by Mr. Campbell for DP&L,  
9 you indicated that you never saw Alcine pour any  
10 oil from transformers on the ground; is that  
11 correct?  
12 A Yes, that's correct. I saw the  
13 stuff on the ground where he had worked with the  
14 transformer, but I never really saw him pour  
15 because I never watched Alcine.  
16 Q Was there any other materials in  
17 proximity that would account for the oil that you  
18 saw on the ground?  
19 A Not to my knowledge.  
20 Q You indicated that Alcine Grillot  
21 probably sold the scrap transformers. Do you  
22 remember that testimony?  
23 A Yes, sir.  
24 Q Can you tell me or do you know who  
25 he sold those transformers to as scrap?  
0171  
1 A Well, one of the metal companies.  
2 Could have been Patterson Iron and Metal. Could  
3 have been Green Iron and Metal. Could have been  
4 Inky's Iron and Metal, Alfred Engelhart. They  
5 dealt with all of them.  
6 Q Does Patterson Iron and Metal still  
7 exist?  
8 A No, it's not in existence.  
9 Q Do you know of any contacts at  
10 Patterson Iron and Metal that may know about the  
11 transformers sold by Alcine?  
12 A No, I don't.  
13 Q How about Green Iron and Metal? Do  
14 they still exist?



15 A No. They don't exist, but Vic Green  
16 still exists. He's in the commercial-industrial  
17 real estate business.

18 Q Where is Mr. Vic Green located?

19 A I don't know where his office is  
20 now. He used to work for us at one time, but I  
21 don't know where -- where his office is at. He's  
22 in the book. I can look it up, but I don't know  
23 offhand where his office is.

24 Q Is his full name Victor?

25 A Victor Green, mm-hmm.

0172

1 Q Does he have a middle initial do you  
2 know?

3 A I'm not sure.

4 Q You may have to refresh my  
5 recollection. You said, I believe, that one of the  
6 other metal scrapers that could have bought the  
7 transformers from Alcine was called Inky's?

8 A Yes, Alfred Engelhart. It goes  
9 under the name of A&G (sic) or something now. It's  
10 on the corner of Washington Street and Perry Street  
11 here in Dayton. It occupies all four corners now,  
12 I think.

13 Q Is there any particular individual  
14 that you're aware of that --

15 A I don't know who runs it now. I  
16 think Mr. Engelhart's probably dead. Inky's  
17 probably dead by now.

18 Q And you mentioned one other possible  
19 scrap yard, and I missed the name.

20 A Oh, Patterson, Green and Engelhart,  
21 Inky.

22 Q Were there any others that --

23 A None that I can think of.

24 Q Mr. Harbeck, counsel for Waste  
25 Management, asked you a number of questions

0173

1 regarding the foundry cores, and I want to -- and  
2 you indicated that you believe that NCR had foundry  
3 cores on the trucks that came to the facility?

4 A Well, they had a special -- they all  
5 had this special foundry core truck. I haven't  
6 seen one around in a long time. But they had a bed  
7 that swung on it. You know, it was on two big  
8 arms. It'd sit on the back of a truck, and they'd  
9 drop that hot foundry core right in that thing.  
10 And they didn't -- usually -- I never seen anything  
11 else in with 'em, and then they'd come and they'd  
12 dump it, you know, lift up and dump.

13 Q Would the term "lugger truck" --

14 A Might be. I don't know. I don't  
15 know if they had a term for it or not.

16 Q Did you ever actually see an NCR  
17 truck dump foundry cores at the facility at the  
18 South Dayton site?

19 A No, I never did see 'em actually  
20 dump it. I've seen what's his name -- Walther dump  
21 'em, but I never saw NCR actually dump 'em. But I  
22 know that when they did away with their foundry  
23 just before they did they didn't have anyplace to  
24 dump 'em on their own ground anymore.

25 Q You mentioned Dayton-Walther. Did  
0174

1 you actually see a Dayton-Walther truck dump  
2 foundry cores?

3 A Yeah.

4 Q Can you show me on Exhibit 1 where  
5 you saw the foundry cores being dumped from  
6 Walther-Dayton?

7 A It was up on this bank that ran back  
8 acrossed here. It would be number 8, I guess. Or  
9 is that number 9? I can't tell. That's number 9.

10 Q Let's use a separate number. Could  
11 you use the number 24 --

12 A Yeah.

13 Q -- to designate where you saw  
14 Walther-Dayton actually dump foundry cores? Or  
15 Dayton-Walther. I'm sorry.

16 A (So complies.)

17 Q You indicated in part of your  
18 testimony that you believe that Hobart sometimes  
19 came in with foundry cores?

20 A Yes.

21 Q Did Hobart have a foundry?

22 A Yes, they did up in Troy.

23 Q Did you ever see a Hobart truck  
24 actually dumping foundry cores at the South Dayton  
25 dump site?

0175

1 A No, sir.

2 Q In response to Mr. Strang's  
3 examination for Valley Asphalt you identified the  
4 piles of reclaimed asphalt. Do you know --

5 MR. STRANG: Objection to the  
6 characterization.

7 BY MR. CYPHERT (Continuing):

8 Q Did you see piles of reclaimed  
9 asphalt at the Valley Asphalt site?

10 A Yeah. You can't miss 'em.

11 Q Do you know what chemicals, if any,  
12 Valley Asphalt uses in their process to manufacture  
13 asphalt?

14 A No, I do not.

15 Q Did you ever see buried drums on the  
16 Valley Asphalt property?

17 A The only place there would ever be  
18 any buried drums would be behind Ottoson if he  
19 buried some there.

20 Q Is the former Ottoson facility now  
21 part of the Valley Asphalt property?

22 A Yes, sir.

23 MR. CYPHERT: That is all that I have.

24 Again, thank you very much.

25 MR. CAMPBELL: One more.

0176

1 MR. CYPHERT: Counsel do have the  
2 opportunity to Recross, and Mr. Campbell indicates  
3 that he would like to talk to you.

4 THE WITNESS: Okay. Fine.

5 RE CROSS EXAMINATION

6 BY MR. CAMPBELL:

7 Q Mr. Boesch, this is Drew Campbell  
8 again.

9 A Yes, sir.

10 Q Just a couple quick follow-ups to a  
11 couple things you just said to Mr. Cyphert.

12 You said that in that building where  
13 Alcine worked on some of the transformers that  
14 there was oil on the floor; right?

15 A Yes, sir.

16 Q How do you know it was oil on the  
17 floor?

18 A It was dirt floor. It was oil. You  
19 didn't want to step in it.

20 Q And how do you know it wasn't  
21 something else?

22 A It was oil. I've stepped in oil  
23 before.

24 Q Well, how do you know it wasn't  
25 something else that was staying on the ground?

0177

1 A Well, I couldn't positively swear  
2 that it wasn't something else, but to the best of  
3 my belief it was oil.

4 Q Were there PCBs in that oil?

5 A I don't know.

6 Q Now, you said to the best of your  
7 belief it was oil.

8 A Yeah.

9 Q Did you ever go down there and touch  
10 it with your hands?

11 A No, I never did, sir.

12 Q And you tried not to step in it;  
13 right?

14 A Right.

15 Q Did you ever step in it?

16 A Yeah, I have a couple times.

17 Q But you can't say for sure whether  
18 you're looking at oil in there or something else  
19 that may have been spilled on the ground?

20 A Well, I'll tell you, whatever it was  
21 it tore the hell out of a pair of gym shoes of  
22 mine.

23 Q What kind of things would tear the  
24 hell out of a pair of gym shoes?

25 A Some kind of acids probably. I

0178

1 don't know. Oil, acids, you know.

2 Q Something that might be kind of  
3 acidic or might burn you mean?

4 A I don't know, to be honest. I'm not  
5 chemically inclined.

6 Q So you don't know whether oil might  
7 burn your sneakers or whether some solvent might  
8 burn your sneakers or whether some, you know,  
9 gasoline or something like that; right?

10 A Yeah, well, it could have been  
11 anything. I don't know.

12 Q That's the point. A lot of things  
13 could burn your sneakers; right?

14 A Right.

15 Q So, I mean, that doesn't necessarily  
16 mean that there was oil on that ground; right?

17 A I didn't have it tested to see if it  
18 was oil. I just believed it was, and that's all I  
19 can say.

20 Q And other than just believing that  
21 it was, you don't have any other basis to say that  
22 that was oil on that ground; right?

23 A Well, he dumped something out of 'em  
24 someplace. Around the building there was spots  
25 around the back of the building where there was a  
0179

1 big overhead door where it looked like something  
2 was dumped, you know, like you take a pitcher of  
3 something and dumping going on. You know, that's  
4 all I know.

5 Q So somebody could have dumped a  
6 pitcher of something out there; right?

7 A Oh, somebody could have dumped  
8 anything out there, yes, sir.

9 Q And you don't know what that was;  
10 right?

11 A No.

12 Q 'Cause you weren't back there when  
13 it was dumped; right?

14 A No, I never visually saw him dump  
15 anything.

16 MR. CAMPBELL: Okay. Great. That's all  
17 I have.

18 THE WITNESS: I think there's another  
19 question on the phone here.

20 MR. CYPHERT: Are there any further  
21 questions from those on the telephone?

22 MR. STRANG: Yes, Carter Strang. I have  
23 a further line of questions in regard to the  
24 barrels.

25  
0180

1 RECROSS EXAMINATION

2 BY MR. STRANG:

3 Q Sir, there were some questions just  
4 a second ago in regard to some barrels that you saw

5 that were -- they were up in the area where the  
6 solvent recycler -- the barrel solvent recycler  
7 company used to operate; correct?  
8 A Yes, sir.  
9 Q Okay. You did not see those barrels  
10 -- you did not witness them when they were put in  
11 the ground; is that correct?  
12 A That's correct.  
13 Q Okay. You don't know -- do you know  
14 when they were put in the ground?  
15 A Probably --  
16 Q Without guessing or speculating.  
17 A No, I don't.  
18 Q Okay. So you wouldn't know if when  
19 they were put in the ground they were empty or not;  
20 is that correct?  
21 A That's correct.  
22 Q Okay. And, in fact, you don't know  
23 who put them in the ground; correct?  
24 A No, I didn't see 'em put 'em in the  
25 ground.  
0181

1 Q Okay. And when did you first  
2 observe any of these barrels that you said were in  
3 the ground in that area?  
4 A Probably sometime in about 1961, '62  
5 I was back talking to Doyle Roberson, who leased  
6 the building directly south of the Valley Asphalt  
7 quonset hut, which he said, "Look at that guy.  
8 He's dumping stuff on my ground." And there was  
9 two barrels, two drums sitting out there, two  
10 50-gallon drums. And Doyle was a tenant that had  
11 the building directly south of the -- of the  
12 Ottoson Solvent building, and he was a tenant that  
13 was directly behind the GMC agency building to the  
14 west.  
15 Q Okay. And he said, "Look at that.  
16 Someone is dumping on -- dumping that stuff on my  
17 ground"?  
18 A Yes, sir. He leased that ground  
19 there for a junkyard.  
20 Q Right. And you talked about Doyle's  
21 junkyard before.  
22 A Yes, sir.  
23 Q Was this what he said while it was  
24 happening?  
25 A No, he said, "Go up there and look."  
0182

1 And I didn't go up and look. I just went by his  
2 word. And I knew those two 50-gallon drums set out  
3 by that -- well, that back door -- I think that  
4 back door's on the west side of the building facing  
5 your other office.  
6 Q So this conver -- you first became  
7 aware of the barrels that were buried when you were  
8 talking with Doyle?

9 A Yes. That's correct. I knew they  
10 were up there. I saw 'em sitting up there when he  
11 moved in there. He had those two drums that he put  
12 his excess in, and they were sitting there then.

13 Q Okay.

14 A They were always sitting by that  
15 door.

16 Q You had said that you had not seen  
17 those drums be emptied; correct?

18 A No, I never seen 'em emptied.

19 Q Okay. And so you had this  
20 conversation in '61 or '62, and that's when he  
21 referenced stuff being dumped from barrels on his  
22 land; correct?

23 A That's when he said, "Ottoson's  
24 dumping something from those barrels on my ground."

25 Q Okay.

0183

1 A Which he was leasing the ground back  
2 there.

3 Q And when he said -- when he said,  
4 "Ottoson's dumping them," did he mean it was  
5 happening right while you were standing there, or  
6 did he mean that it had happened at some time prior  
7 to the time the two of you were standing there?

8 A It had happened prior to the time  
9 that we were standing there.

10 Q Okay. So anything that you know  
11 about that is based on what you were told by Mr. --  
12 by Doyle; is that correct?

13 A By Doyle Roberson, yes, sir. Except  
14 I saw the two drums.

15 Q Did you actually -- did you actually  
16 -- he was talking about dumping. You talked about  
17 having seen buried barrels in the area up by  
18 Ottoson Solvent.

19 A Yes. When they put that water line  
20 through, when they gave Valley Asphalt the easement  
21 to put that water line through. I'd have never let  
22 'em put it through. They had a water line coming  
23 in off of Dryden Road. They didn't need that water  
24 line. That started this whole problem with the  
25 EPA. Some guy was doing it up there, and he told

0184

1 the EPA that this was a terrible dump, he knew how  
2 rotten it was and all kinds of stuff had been  
3 dumped in there, if you want to really get me  
4 started.

5 Q Sir, I want to know the facts.  
6 That's all I want to know.

7 A I'll give you the facts.

8 Q That's great.

9 A As I know them. As I know them.

10 Q So when was it that you actually saw  
11 barrels that were in the ground up in the area of  
12 Ottoson Solvents?

13           A   That was probably sometime in the  
14 nineties, I guess, when they put that water line up  
15 there.

16           Q   Got it. Okay. I appreciate it.

17           A   And you actually went out to that area  
18 and saw the drums?

19           A   Yes, I did. Nobody knew about 'em.  
20 I was about the only one alive that knew what the  
21 hell was going on up there.

22           Q   Was anybody from Valley Asphalt  
23 there with you?

24           A   Not to my knowledge. I walked up  
25 there with Jim Kiefer and --

0185

1           Q   Okay. And were the barrels  
2 completely -- well, describe what you saw when you  
3 went up there as to the barrels.

4           A   I saw about four 50-gallon drums  
5 lying down in there, and they were in different  
6 states of decay.

7           Q   Okay. They were metal drums?

8           A   Yes, sir.

9           Q   Okay. And can you describe them?

10          A   Well, they're 50-gallon metal drums.

11          Q   Did they have a coloring? Did they  
12 have any marking on them?

13          A   There were mostly rust on 'em. I  
14 didn't see any markings on them.

15          Q   And how close did you get to them?

16          A   How close did I get to 'em?  
17 Probably about 20 feet away standing looking at 'em  
18 down in the trench there.

19          Q   Got it. Okay. And did they have --  
20 were they open or closed if you know?

21          A   Was there a lid on 'em you mean?

22          Q   Yeah.

23          A   Is that what you're talking about?

24          Q   That's right.

25          A   I didn't see a lid on 'em.

0186

1           Q   If you don't know, that's fine.

2           A   I wasn't really looking for a lid,  
3 to be honest with you. I just saw the four drums  
4 laying down there. And Kiefer says, "Where do you  
5 think these came from?" And I told him what I  
6 thought. That's all I knew.

7           Q   And what did you tell him?

8           A   I told him -- I said, "Probably was  
9 Ottoson that dumped 'em back here." That's the  
10 only place that handled drums in that area, and  
11 that wasn't part of the dump.

12          Q   Great. And did you ever ask Mr.  
13 Ottoson about that?

14          A   No, I never asked. Dean Ottoson was  
15 long gone.

16          Q   Okay. And you can't tell us today

17 what was or was not ever in those drums at the time  
18 they were buried?

19 A I have no idea whatsoever.

20 Q Okay. Is there anything else that  
21 you recall in regard to any barrels that were at  
22 any area that Valley Asphalt ever owned?

23 A No, I can't.

24 MR. STRANG: Okay. Thank you very much.  
25 sir.

0187

1 THE WITNESS: Yes, sir.

2 MR. CYPHERT: Does anybody else here in  
3 the conference room have any additional questions  
4 for Mr. Boesch?

5 Mr. Boesch, I believe we are all  
6 concluded.

7 THE WITNESS: Okay. Thank you.

8 MR. CYPHERT: You have, of course, the  
9 right to read the transcript of this deposition,  
10 and your counsel can advise as to whether or not  
11 you should.

12 MR. HOFFMAN: And he will.

13 MR. CYPHERT: So we would ask the court  
14 reporter to please deliver a copy of the transcript  
15 to Mr. Hoffman, and then he will read and let you  
16 know if there are any corrections.

17 Okay. Well, thank you very much. You  
18 were very patient with all of us today.

19 THE VIDEOGRAPHER: We are now off the  
20 record. The time is 3:04.

21 (The taking of the deposition concluded  
22 at 3:04 o'clock p.m.)

23

24

25

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1 I, HORACE J. BOESCH, JR., do hereby  
2 certify that the foregoing is a true and accurate  
3 transcript of my testimony.

4

5

6

7

8 HORACE J. BOESCH, JR.

9

10 STATE OF OHIO )

11 ) SS:

12 COUNTY OF \_\_\_\_\_)

13 Sworn to before me and subscribed in my  
14 presence by the same HORACE J. BOESCH, JR., this  
15 \_\_\_\_ day of December, 2011.

16

17

18 \_\_\_\_\_  
19 NOTARY PUBLIC

20 My Commission expires: \_\_\_\_\_



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22  
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1 STATE OF OHIO )  
 ) SS: C-E-R-T-I-F-I-C-A-T-E

2 COUNTY OF MIAMI )  
3 I, SUSAN L. BICKERT, a Certified  
4 Shorthand Reporter and Notary Public in and for the  
5 State of Ohio at large, duly commissioned and  
6 qualified,

7 DO HEREBY CERTIFY that the above-named  
8 HORACE J. BOESCH, JR. was by me first sworn to  
9 testify to the truth, the whole truth, and nothing  
10 but the truth; that his testimony was reduced to  
11 writing by me stenographically in the presence of  
12 the witness and thereafter reduced to typewriting;  
13 that the signature of the witness to the deposition  
14 was expressly not waived, and was taken at the time  
15 and place hereinafter set forth, pursuant to Notice  
16 and Agreement of Counsel.

17 I FURTHER CERTIFY that I am not a rela-  
18 tive nor attorney for either party herein, nor in  
19 any manner interested in the event of this action.

20 IN WITNESS WHEREOF, I have hereunto set  
21 my hand and seal of office this 15th day of  
22 December, 2011.

23 \_\_\_\_\_

24 SUSAN L. BICKERT  
Notary Public, State of Ohio  
25 My Commission expires: 8-23-13